

STATE OF CALIFORNIA  
RECLAMATION BOARD TRLIA SUBCOMMITTEE  
MEETING

YUBA COUNTY GOVERNMENT CENTER  
915 EIGHTH STREET  
BOARD OF SUPERVISORS' CHAMBER  
MARYSVILLE, CALIFORNIA

MARCH 22, 2007

1:03 P.M.

KATHRYN S. KENYON, CSR  
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

RECLAMATION BOARD

Mr. Benjamin Carter, President  
Mr. Butch Hodgkins, Vice President  
Ms. Lady Bug Doherty, Secretary  
Mr. Jay Punia, General Manager  
Ms. Nancy Finch, Legal Counsel  
Mr. Dan Fua, Supervising Engineer  
Ms. Lorraine Pendlebury, Staff Assistant

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

Ms. Mary Jane Griego, Board Member  
Mr. Dan Logue, Board Member  
Mr. Paul Brunner, Executive Director  
Mr. Scott Shapiro, Special Counsel  
Mr. Ric Reinhardt, Program Manager

ALSO PRESENT

Mr. Rex Archer  
Mr. Tom Ellis, U.S. Army Corps of Engineers  
Mr. Tom Foley, CCRG  
Mr. Greg Foster  
Mr. Tom Harris, Hofman Ranch  
Ms. Frances Hofman

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APPEARANCES CONTINUED

Mr. Jim Lewis

Mr. Bob Morrison, Bender Rosenthal

Mr. Dale Nieschulz

Mr. George Qualley, DWR

Ms. Jeanette Rice, Rice River Ranch

Mr. Thomas Rice, Rice River Ranch

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1 PROCEEDINGS

2 VICE PRESIDENT HODGKINS: We're going to start in  
3 about five minutes. But I would like to take the  
4 opportunity to remind those, if you would like to testify  
5 today or comment, we need you please to fill out a card.  
6 Cards are available on the back table, and you can  
7 indicate for us which agenda item it is that you would  
8 like to comment on. And if you just wanted to comment in  
9 general, we have a couple of comment sessions on the  
10 agenda, at the end of the meeting for people who want to  
11 comment on items not the agenda.

12 When we start, we will give -- ask for comments  
13 and provide the opportunity to comment, at the conclusion  
14 of each item or subitem. You have an agenda, so you know  
15 that means, first, we're going to go in and see if there's  
16 any reason to change the agenda.

17 Then under 3, which is Status and Review of the  
18 Three Rivers Levee Improvement Authority Project, we have  
19 Item A, which is Issue of Permit Compliance; and then  
20 under B, we actually have five, separate issues, and we  
21 will pause at the conclusion of each of the separate items  
22 to offer an opportunity for public comment.

23 So that's how we would like to proceed.

24 In making the comments today, it's important for  
25 the Rec Board to be sure we have a transcript of what's

1 said at the meeting and that means our reporter has to be  
2 able to hear your name.

3 Not the name.

4 LEGAL COUNSEL FINCH: No. What they are saying.

5 VICE PRESIDENT HODGKINS: Okay. Of what you say.

6 And we would like to be able to identify who said it in  
7 the transcript.

8 So we'll offer you two ways to do this, whichever  
9 makes you the more comfortable. At the beginning of the  
10 comments, we either can bring you a microphone if you want  
11 to comment from your seat. Or if you prefer, you're  
12 welcome to come up to the dais. But we need to get a  
13 microphone in your hand, because in a room this big, so  
14 that the reporter can hear what you say. So when we get  
15 to comments, we will ask you to wait, once we've  
16 identified you as the next person to speak, until we get a  
17 microphone to you.

18 All right. After you have completed a card, bring  
19 it up to the clerk of the Board. Would you raise your  
20 hand, Lorraine?

21 Yeah. And she'll get them to me.

22 Mr. Carter is here. I would like to go ahead and  
23 call the meeting of the TRLIA Subcommittee to order.

24 First item here is roll call.

25 Jay?

1           GENERAL MANAGER PUNIA: Jay Punia, general manager  
2 of the Reclamation Board. For the record, all the  
3 subcommittee members of the Reclamation Board are here:  
4 President Ben Carter, Board Member Butch Hodgkins, and  
5 secretary of the Board, Lady Bug.

6           VICE PRESIDENT HODGKINS: Thank you, Jay.

7           Okay. Second item here is approval of the agenda.

8           Is there anybody who wants to change or comment on  
9 the agenda?

10          Okay.

11          PRESIDENT CARTER: I move that we approve the  
12 agenda as filed.

13          SECRETARY DOHERTY: I will second that.

14          VICE PRESIDENT HODGKINS: Moved and seconded.

15          And all in favor, say "aye."

16          (Ayes.)

17          VICE PRESIDENT HODGKINS: The agenda stands as  
18 posted.

19          Okay. Move now on to Item 3. 3A is the response  
20 to February 26, 2007, public comments on TRLIA compliance  
21 with Yuba River South Levee permit conditions. And we're  
22 going to go ahead and let TRLIA respond to the issues.

23          I will mention that there have been discussions  
24 between TRLIA and our staff, about the response, in an  
25 effort to try and make sure none of the issues that were

1 raised earlier are overlooked. I would like, please, to  
2 go through their entire response, and then we will have an  
3 opportunity to comment and questions about that response.

4 All right. I will turn this over to you,  
5 Mr. Brunner.

6 TRLIA EXECUTIVE DIRECTOR BRUNNER: Yes. I would  
7 like to welcome the Rec Board to Yuba County and welcome  
8 the opportunity to share what we have, on the various  
9 topics that we've got. We've got a lot of agenda topics.

10 First one deals with compliance issues that were  
11 raised at the last meeting, that we summarized. Before we  
12 get right into that item, a couple of comments, I would  
13 like to share.

14 Members of our team here, Dan Logue and Ms. Griego  
15 will be here -- members of our advisory committee from the  
16 TRLIA Board will be here during the meeting.

17 Besides myself -- I'm Paul Brunner, the executive  
18 director of Three Rivers. Ric Reinhardt is here, who's  
19 our project manager engineer for our program. Scott  
20 Shapiro is special counsel for our team. Bob Morrison is  
21 also here, who will be speaking later on, on real estate  
22 activities. And part of the -- if you have questions  
23 about administrative things or working through in the  
24 background, Leslie Wells from our office is right back  
25 here, and she'll be able to help out people in the



1 audience back here.

2 We do have some handouts in the back. There's a  
3 handout of paper that we prepared in conjunction with  
4 the -- ourselves and coordinating with the Rec Board  
5 staff -- will be speaking to that in a second, to the  
6 compliance issues.

7 The -- we do not have copies of all our briefing  
8 slides for everyone. The cost of just reproducing these  
9 is really significant. So what we ended up doing is  
10 making copies for the Board members and ourselves here,  
11 people that were participating. If there is interest in  
12 getting a copy of the briefing, I asked Leslie to put them  
13 on our Web page. So they are being placed on the Web  
14 page. If not today, they will be there tomorrow, on the  
15 Web page, for people to look at.

16 If you do not have that ability to look at the Web  
17 page, sign up, and we'll get you a copy of the briefing  
18 slides, a hard copy, that you can look at. And the person  
19 to contact here, during the course of the meeting, will be  
20 Leslie, and she will handle that for you.

21 So with that I would like to turn to Scott  
22 Shapiro, who will talk about the very first topic. Scott?

23 TRLIA SPECIAL COUNSEL SHAPIRO: Thank you, Paul.

24 Good afternoon, members of the Reclamation Board  
25 Subcommittee. Thank you again for joining us.

1           I'm going to be referring to two documents in this  
2 presentation on Agenda Item 3A. One is a memorandum,  
3 which I'm holding up, which says "Responses to issues  
4 raised on February 26, 2007, before the State Reclamation  
5 Board Subcommittee." There are enough for everyone in the  
6 audience. They are on the back table if you didn't get  
7 one. So this document is available to everyone in the  
8 audience to refer to.

9           The second item is the PowerPoint presentation  
10 itself. And as Paul said, there are only enough, due to  
11 cost limitations, but they are available on the Web site.  
12 And if you ask Leslie, we can make other arrangements.

13           At the last subcommittee meeting, at the end of  
14 the meeting, with the assistance of the President Carter  
15 and Vice President Hodgkins, we went through a list of 12  
16 issues that had been raised by the public and took down  
17 notes on these 12 items. And the purpose of this  
18 presentation is to go through each of the 12, to identify  
19 the issues as we understood it and the response to the  
20 issue.

21           (Thereupon an overhead presentation was  
22 presented as follows.)

23           TRLIA SPECIAL COUNSEL SHAPIRO: Detail on this is  
24 in the memo, that everybody in the room has, and that's  
25 available on the back table, and the PowerPoint

1 presentation is simply the way of logically marching  
2 through it.

3 --o0o--

4 TRLIA SPECIAL COUNSEL SHAPIRO: Issue No. 1 was  
5 the claim that the February 26th meeting constituted a  
6 violation of the Bagley-Keene Act. As noted in our memo,  
7 this is an issue that has been handled by Reclamation  
8 Board staff counsel. We noticed on the agenda, that this  
9 is agendized as Item No. 4. And my understanding is, the  
10 Board tends to address it at that point.

11 So we'll move on to issue No. 2.

12 --o0o--

13 TRLIA SPECIAL COUNSEL SHAPIRO: Issue No. 2, the  
14 claim was that the Three Rivers has worked in the Yuba  
15 River levees beyond the authorized time contained within  
16 the relevant encroachment permit.

17 The simple response is that during 2006/07, Three  
18 Rivers did work on the Yuba levees between Highway 70 and  
19 Simpson Lane, under Permit 18095GM and Permit 17921GM. We  
20 also performed O&M work on those levees in 2006. And what  
21 follows are three tables that break down the work that we  
22 performed, that identifies the permits or basis for doing  
23 the work.

24 --o0o--

25 TRLIA SPECIAL COUNSEL SHAPIRO: Before we get to

1 that, here, very simply, are two aerials, with  
2 information. These were taken in Steve Bradley's  
3 presentation at the Reclamation Board last Friday, as an  
4 orientation.

5 You see on this first slide, Highway 70 to Simpson  
6 Lane reach.

7 And the second slide -- this is work done under  
8 Permit 17921. There's the seepage berm.

9 --o0o--

10 TRLIA SPECIAL COUNSEL SHAPIRO: The second slide,  
11 you see Simpson Lane to UPRR; correct? As always, I will  
12 look to Ric Reinhardt and Paul Brunner for technical  
13 support, to make sure I'm not misstating anything about  
14 the work we've done.

15 The work in this section was done under Permit  
16 18095. And there was slurry wall down along the length of  
17 the levee. And there was slope flattening done along this  
18 length.

19 And there was also a seepage berm, what I refer to  
20 as the triangular seepage berm, which you can see now  
21 appearing on our end, on the left side of the screen,  
22 about halfway up. Those are the two different permits,  
23 the two different geographic areas.

24 Let me turn to the tables, which are, again,  
25 contained in the hand out.

1           Work under 18095GM between UPRR and Simpson Lane  
2   included the following work: The slurry wall, which was  
3   identified, which was constructed through October 22nd,  
4   completed before the November 1st cutoff time line;  
5   regrading of slope on the water side, to three to one,  
6   also completed before November 1st; installation of the  
7   seepage berm at the Cemex property. That was the  
8   triangular seepage berm on the left side of the screen,  
9   the second slide. That was completed after November 1st  
10   but was done pursuant to a time extension, which was  
11   granted by staff, to work until February 6th of 2007; and  
12   finally, the installation of two monitoring wells at the  
13   Cemex property, by the seepage berm. Again, the time  
14   extension was granted, and that work was finished by  
15   February 1st, 2007. The reason that this work was done  
16   after November 1st was, primarily, we did not obtain the  
17   property rights until sometime in January, to install the  
18   seepage berm and the monitoring wells. There was also the  
19   fact that, as we understood it, this work was not required  
20   for certification. Therefore, we were going to postpone  
21   it to the dry season. But in light of the fact that the  
22   quarry permit was required for certification, we  
23   aggressively did it during the winter with permission of  
24   the time extension.

25   --o0o--

1           TRLIA SPECIAL COUNSEL SHAPIRO: The second table  
2 indicates work done under 17921GM on the seepage berm.  
3 This is now the other seepage berm, the one in the first  
4 slide, the one closest to Highway 70. The seepage berm  
5 work was completed by October 21st, again, before the  
6 November 1st deadline.

7           There was a detention pond excavation, which took  
8 place between January 12th and January 19th. As those who  
9 have tracked this issue know, Three Rivers did not believe  
10 that an encroachment permit was required. But upon  
11 hearing from staff and the Board, that the preference was  
12 the one we applied for -- Three rivers applied for one --  
13 and on Friday the Reclamation Board agreed to accept and  
14 process the application.

15           The final table is the work that was done under  
16 the O&M exception. As many know, there is no prohibition  
17 against working on the levees for certain purposes during  
18 the winter. In fact, it's often important to get in there  
19 and perform O&M during that season. And the activities  
20 here were all done in furtherance of O&M.

21           The first was sand placement. We noticed on the  
22 seepage berm, there were a few low spots, so we added a  
23 little bit of sand to level that out, that the survey data  
24 was in. The rest of the items there, all the things were  
25 erosion control: strippings, placing the seepage berm, top

1 cover, cobble placed to prevent erosion; further stripping  
2 to prevent erosion; aggregate base for road, this is along  
3 the seepage berm; and the hydroseeding. All of these  
4 activities were -- I should note that this entire paper  
5 was shared with Rec Board staff earlier in the week, and  
6 has been reviewed. And as we understand it, Rec Board  
7 staff agrees with the conclusions in here.

8 --o0o--

9 TRLIA SPECIAL COUNSEL SHAPIRO: So moving on to  
10 Issue 3. Issue 3, that we heard during the last meeting,  
11 the public has no confidence in the statements of the Army  
12 Corps of Engineers in regard to the level of protection  
13 provided by the Yuba River levee, especially in light of  
14 the presence of the boulders used to seal the 1986 break.

15 Three Rivers' response is that the Army Corps of  
16 Engineers is the recognized national levee expert. The  
17 work that we performed was pursuant to their standards.  
18 They have reviewed our design. The design was done by a  
19 nationally recognized company. And we stand behind the  
20 work. And we also believe that the Corps' seal is  
21 important and relevant to determining the adequacy of the  
22 work.

23 --o0o--

24 TRLIA SPECIAL COUNSEL SHAPIRO: Issue No. 4 was  
25 raised at the last meeting. The claim was that Three

1 Rivers is not qualified to run the program that's being  
2 performed. Instead, the work should be done by RD 784,  
3 the State of California, or the Army Corps of Engineers.

4 Three Rivers aggressively engaged in this  
5 improvement program, because it did not believe that Yuba  
6 County could afford to wait for the Corps process, which  
7 would take an additional five, ten, fifteen years.

8 In fact, the process -- when Three Rivers began,  
9 the Corps was investigating improvements to the RD 784  
10 levees. And five years later, the Corps continues its  
11 investigation, has not finalized the report that has to go  
12 to Washington in order for the Corps to even have the  
13 opportunity to seek congressional authorization of  
14 projects. What that basically means is, this project will  
15 almost certainly be done before the Corps even has the  
16 legal authority to act and perform this work.

17 Three Rivers and its consultants are well  
18 qualified. To the embarrassment of my colleagues at the  
19 table, I've picked just a few key points here. Paul  
20 Brunner, our executive director is a civil engineer with  
21 30 years of experience. Ric Reinhardt is a civil engineer  
22 with 12 years of experience and formally was with the  
23 Corps, in flood issues. And finally, HDR and BE/GEI, our  
24 main design and construction oversight consultants are  
25 nationally recognized in the fact that they are



1 consultants to DWR and the Corps of Engineers for projects  
2 around the country.

3 --o0o--

4 TRLIA SPECIAL COUNSEL SHAPIRO: Issue No. 5 was  
5 raised at the last meeting. Three Rivers has repeatedly  
6 made statements to the public about whether the  
7 completed -- when the completed levees would be certified.  
8 And to date, those levees have still not been certified.

9 --o0o--

10 TRLIA SPECIAL COUNSEL SHAPIRO: That is correct.  
11 Three Rivers does not control the Corps process and when  
12 certification will be provided. Nonetheless, we're  
13 hopeful it will be soon.

14 The technical memo goes into much greater detail.  
15 It identifies the communication that we've had with the  
16 Corps and with the Reclamation Board in reporting on when  
17 we expect certification. It also identifies the reaches  
18 that certification is relevant to. And finally, it has  
19 over a page of detailed items that the Corps had requested  
20 be done, to finally allow certification to go forward.  
21 You will notice that of those items, all except one has  
22 been completed, and that's the first one.

23 So Three Rivers is very confident that  
24 certification will occur shortly. I hesitate to even  
25 offer a date, in light of our past dates that have been

1 offered. But we are hopeful that as soon as that last  
2 item is accepted by the Corps, certification will come.

3 --o0o--

4 TRLIA SPECIAL COUNSEL SHAPIRO: Issue No. 6,  
5 raised at the last meeting. Three Rivers has not been  
6 truthful in dealing with the State Reclamation Board.

7 We provide monthly updates. We do those in  
8 writing form, about two weeks before the Board meeting.  
9 We provide a written supplemental report at the Board  
10 meeting. We also provide a verbal report at the Board  
11 meeting. Our goal, in each of these reports, is to  
12 provide accurate and timely information. If there is an  
13 error in them, we do our best to correct it. Where it's  
14 been identified in the past, that there was an error, we  
15 have corrected it. And to the extent that a past report  
16 provided incomplete or incorrect information, we regret  
17 that, and we will work diligently with the Board, the  
18 staff, and the public, to address those issues.

19 --o0o--

20 TRLIA SPECIAL COUNSEL SHAPIRO: Issue No. 7, again  
21 from the last meeting, Three Rivers has been illegally  
22 working on the levees during the winter months.

23 In regards to this claim, we refer back to the  
24 response that says "to Issue 7." It should be "to Issue  
25 No. 2." That was the three different tables in which we

1 identified the work done under each of the two different  
2 permits on Yuba and the work that was done under the  
3 elementary section.

4 --o0o--

5 TRLIA SPECIAL COUNSEL SHAPIRO: Issue No. 8. A  
6 significant cut has been made into the Yuba River levee.  
7 And Three Rivers is hiding that from the State Reclamation  
8 Board.

9 We were not aware of that cut until the issue was  
10 raised at the last meeting. As General Manager Jay Punia  
11 identified, he had recently been informed of the cut and  
12 had not yet had an opportunity to inform Three Rivers of  
13 its existence. We did go out and investigate it. The cut  
14 is approximately 6 inches deep. It does not appear to  
15 have damaged the structural integrity of the levee.

16 Attached to the memo, that the audience has, is a  
17 technical memo from HDR, that analyses, for three or four  
18 pages, ways in which the cut might have been created, work  
19 that could be done to fix it, and confirm that it does not  
20 have any negative impact to the structural integrity.

21 Since identifying the cut, Three Rivers requested,  
22 and the Board staff approved the variance to Permit 17921,  
23 to repair the cut. And earlier this week, we had a  
24 construction crew on site to do that work --

25 --o0o--

1           TRLIA SPECIAL COUNSEL SHAPIRO:  -- which is not  
2 quite completed yet.

3           Issue No. 9, Three Rivers illegally constructed a  
4 detention basin on Caltrans property adjacent to the  
5 seepage berm without an encroachment permit from the State  
6 Reclamation Board.

7           As noted previously, we do not believe a permit  
8 was required.  Nonetheless, upon hearing from the Board  
9 and staff that they would like a permit, we applied for a  
10 permit.  And on Friday of last week, the Board agreed to  
11 process that application.  And assuming the packet is  
12 complete, we look forward to receiving the permit after  
13 that.

14                               --o0o--

15           TRLIA SPECIAL COUNSEL SHAPIRO:  Issue No. 10 from  
16 the last meeting.  The Yuba River levee seepage berm was  
17 constructed later than originally planned.

18           That is also correct.  As I noted earlier, Three  
19 Rivers planned to construct that seepage berm in 2006 as  
20 part of slurry wall construction.  But we did not receive  
21 the necessary real estate rights until January 22nd of  
22 2007.

23           We also, as I noted, believed it was not required  
24 for certification, so it could have been pushed until the  
25 summer, when there's no risk of high water.  But during

1 certification review by the Corps, the Corps requested it  
2 be constructed sooner, and so we did construct it, again  
3 pursuant to an authorized variance from Rec Board staff.

4 --o0o--

5 TRLIA SPECIAL COUNSEL SHAPIRO: Issue No. 11. The  
6 accepting of a permit from the State Reclamation Board is  
7 a commitment to perform all of the work contained within  
8 the permit, within the time frame within the permit.

9 That's actually not correct. An encroachment  
10 permit is an authorization from the Board to perform the  
11 work. It is not a requirement that the work be performed.  
12 It does not have a deadline in it for when the work is  
13 supposed to be completed. It does state that if the work  
14 is not completed -- not started within a year, the permit  
15 is no longer valid.

16 Nonetheless, we do intend to construct all  
17 necessary program elements to achieve 200-year protection.  
18 It hasn't happened through this program, that between  
19 obtaining a permit and working with the Corps for  
20 consultation, we found that some program elements were not  
21 necessary or need to be changed. In those circumstances,  
22 we've come back to the Board and requested a modification  
23 of that permit.

24 Certainly if there's work that we received a  
25 permit for and do not do the work, we will, in conjunction

1 with DWR, upon their final inspection, make the Board  
2 aware of that. And if any further remedial action is  
3 required, we would be available to do it at that time.

4 --o0o--

5 TRLIA SPECIAL COUNSEL SHAPIRO: Finally, Issue  
6 No. 12, Yuba River levees are now washing out as a result  
7 of the recent rains.

8 There was a photo presented last time. The photo  
9 did not show, to us, any significant erosion. Three  
10 Rivers and RD 784 have gone out and looked at that levee  
11 and do not believe there was any severe or significant  
12 erosion.

13 We are, however, going to repair the minor erosion  
14 during our normal maintenance work at the appropriate  
15 time, which would most likely be in the spring.

16 And unless Ric or Paul have anything to add, that  
17 concludes our presentation on the 12 points.

18 VICE PRESIDENT HODGKINS: Are there any questions  
19 for the Board members and staff?

20 PRESIDENT CARTER: I have one question.

21 On your memorandum you had, you listed a  
22 completion date. There was a question raised at the last  
23 meeting and also the last Board meeting with regard to  
24 what -- how you define "completion."

25 I just want to clarify, "completion" means that

1 the construction work has been done, it does not imply  
2 that the work has been inspected and approved or accepted  
3 by the State or the Corps; is that correct?

4           TRLIA SPECIAL COUNSEL SHAPIRO: That's correct.  
5 The dates that are on there are when we finish the major  
6 construction activities. For example, if you look at the  
7 second table, the completed seepage berm completed on  
8 October 21st, 2006, despite that, after surveys, we found  
9 that there were a few low spots. So under O&M, the first  
10 item in the next table, we add some sand places to fill  
11 low spots. So that's an example where we deemed the  
12 construction is complete. But that didn't mean that we  
13 were walking away from the project, with a bow on it,  
14 ready to go home.

15           And Paul or Ric, do you have anything to add?

16           TRLIA EXECUTIVE DIRECTOR BRUNNER: The only thing  
17 I would add to that is that the term "completion" is very  
18 much like Scott was talking about. We look at structural  
19 integrity. Is the levee system in place? In this case,  
20 the seepage berm was there.

21           VICE PRESIDENT HODGKINS: Okay. Other questions  
22 from staff or the Board?

23           Seeing none, I have cards from Thomas Foley and  
24 Rex Archer, who have both indicated a desire to speak on  
25 this item. And I will go ahead -- I think Mr. Foley's

1 card came in first. Is there an order you prefer?

2 MR. FOLEY: Good afternoon, Board and Three Rivers  
3 Board members. Thank you for allowing me to speak. I'm  
4 Thomas Foley, Yuba City, California, director of a small  
5 nonprofit, been in business since '04, Concerned Citizens  
6 for Responsible Growth.

7 I would like to, I guess, rebut or speak again, on  
8 No. 4, TRLIA not qualified; number 6, TRLIA not truthful.

9 I have involved myself with this since 2004. How  
10 everything has unfolded demonstrates clearly how badly the  
11 public needs the Rec Board.

12 This is a very good thing for the public, how  
13 Three Rivers was called before to clean up their actions.  
14 It shows the Rec Board authority should be used more  
15 aggressively.

16 It clearly demonstrates clearly how badly the  
17 public needs the Rec Board and how badly the public needs  
18 the Rec Board to act with integrity. Oh, I want to  
19 mention again, what I want to refer to on 4 and 6, not  
20 qualified and not truthful, is regards to findings, not  
21 engineering. The assurance that the Board had before --  
22 the page from the transcripts, May 19th, Scott Shapiro  
23 said to the Board, the building permit restrictions are  
24 not to be lifted till 20 million is in an escrow account,  
25 guaranteed 150 million to follow.



1           If assurance were given to the public, through the  
2 Rec Board, on May 19th meeting -- that was also the  
3 meeting these assurance were given. That was the meeting  
4 the Board lifted the building restrictions, based on those  
5 assurances. That's both.

6           If assurances were given to the public, through  
7 the Rec Board that \$135 million was guaranteed by the  
8 lifting of the building restrictions, why should the  
9 public settle for less? Last meeting, we heard a hundred  
10 million dollars coming from the development community.  
11 That's \$35 million less than promised, to lift the  
12 restrictions.

13           I don't believe it is unreasonable, as a member of  
14 the public, to expect the Rec Board to ensure promises are  
15 kept. To the best of their abilities, the Rec Board  
16 should deliver to the public what the public was promised.  
17 The builders are not being asked anything especially  
18 onerous. They are being asked to pay infrastructure  
19 impact fees. That goes on every day. The development  
20 impacts the public, and the public reasonably expects that  
21 their public officials, when dealing with developers, get  
22 a good deal for the public. The developers as businessmen  
23 are looking to cut costs. If lax government officials  
24 don't demand adequate impact fees, infrastructure fees,  
25 that is a good deal for the home builder. But that's a

1 bad deal for the public.

2           Allowing development of floodplains without  
3 adequate flood protection is risky and Plumas Lakes is  
4 controversial. The former members of the Rec Board forced  
5 the local officials here to get serious. Is this Board,  
6 is this Rec Board, going to meet their responsibilities?  
7 Acting as a Board, they haven't yet. It is extremely  
8 suspect to hear Rec Board members praising local officials  
9 and the development community. And they should know  
10 better. They should know that builders do not volunteer  
11 impact and infrastructure fees out of the goodness of  
12 their heart.

13           The Board has the power and responsibility to use  
14 their power, to extract quickly the monies needed for  
15 levee repairs to move forward. There is only so much bond  
16 money to go around. There isn't enough -- it is not  
17 unlimited.

18           You are allowing local officials here, and DWR at  
19 the last meeting to misrepresent to the public what is  
20 occurring. It is not okay for the Board to allow  
21 developers in this area to escape their flood protection  
22 obligations without acknowledging to the public that they  
23 are taking, by that action, by the Board's -- by the Board  
24 allowing that to happen, you are taking bond money away  
25 from some other areas.

1           If the developers promise you \$35 million to lift  
2   the bid and now a hundred million, won't \$35 million be  
3   taken away from other residents in the flood zone area?  
4   The Board should not allow that.

5           The Board is going to see a lot of this. Ensuring  
6   fair share financing of flood protection between bond  
7   money and developer fees is as much this Board's job as  
8   anything is.

9           Getting the financing right is integral to the  
10   soundness of flood control projects as geotechnical  
11   engineering is. The Board has powers and  
12   responsibilities. It is not a rubber stamp for other  
13   agencies, even if many private interests may wish it were.

14          Thank you.

15          VICE PRESIDENT HODGKINS: Do you want to respond  
16   at all?

17          TRLIA SPECIAL COUNSEL SHAPIRO: No.

18          VICE PRESIDENT HODGKINS: Okay. Couple of things  
19   that I would like to sort of respond on. I want to be  
20   sure I heard what Mr. Foley said, because I have a hearing  
21   problem, and his voice and my ears don't work really good  
22   together.

23          But I think you said that at some point in the  
24   past, there was a commitment here to bring forward from  
25   the development community enough money, 135 million to

1 complete this project.

2 MR. FOLEY: It's in the transcripts, yes.

3 VICE PRESIDENT HODGKINS: And I think that's a  
4 correct statement, that that commitment was made. And I  
5 think Mr. Foley is now saying that, what, that the money  
6 hasn't been forthcoming? I don't want to put words in  
7 your mouth.

8 MR. FOLEY: Unless I'm missing something,  
9 transcripts, May 19th, 135 million from the development  
10 community, Scott Shapiro last -- whatever that day was,  
11 February -- last meeting here, a hundred million. That's  
12 \$35 million less. Both are in the transcript, I'm sure of  
13 it.

14 That is my question. When the 35 million goes  
15 missing, there is someone -- some other downstream -- some  
16 other upstream. There are people living in areas that  
17 need it, that can badly use that \$35 million for flood  
18 improvements. And you lifted the building restrictions on  
19 promises of \$135 million.

20 VICE PRESIDENT HODGKINS: Could we kind of work  
21 through these together, to make sure I understand? Okay.  
22 It wasn't to bring forward \$135 million. Subsequent to  
23 that, the bond issue passed.

24 Is the point you are making that rather than have  
25 them receive bond money, they should still be required to

1 bring forward the 135 million that they committed to bring  
2 forward?

3 MR. FOLEY: Yes, the \$35 million that doesn't come  
4 from them, that is bond -- that you are giving them  
5 \$35 million in bond money that people -- other people  
6 should really expect that they should receive, other  
7 areas.

8 VICE PRESIDENT HODGKINS: Okay. And I think, you  
9 know, Mr. Foley raises a point. But I think it's  
10 important for the audience to understand here that the  
11 money that is approved in those bond issues is going to be  
12 brought about by a combination of DWR and the Legislature.  
13 And DWR is in the process of working out exactly what the  
14 requirements will be when they're parceling the money out.  
15 And they have indicated that perhaps this project  
16 qualifies for some money, but there has been no commitment  
17 to give them any money.

18 The Board doesn't really control how DWR and the  
19 Legislature allocate the money out of the bond. And part  
20 of what I'm sure they are worrying about is, they want to  
21 make sure they follow the requirements of the bond and  
22 they want to treat everybody fairly and equitably as they  
23 do that.

24 And so while I'm not disagreeing specifically with  
25 Mr. Foley's point, I'm just saying that they are not

1 correct. I think that allocating the bond money is  
2 something that's done by DWR, and the legislature is  
3 consistent with provisions and bonds, was approved by the  
4 voters, and the regulations are going to be forthcoming.

5 And so the Board is not in a position here,  
6 whether it is likely. We could say, don't give them the  
7 money, rather have it available to somebody else. I know  
8 it sounds like we keep escaping this by saying it's not  
9 something we are in control of. But it is not something  
10 that we're in control of. Although I certainly think this  
11 is an appropriate forum for somebody to make a point about  
12 what they think about it.

13 MR. FOLEY: Can I mention --

14 PRESIDENT CARTER: Butch, what I would suggest --  
15 I'm a little confused with regards to the facts. I'm not  
16 sure whether the Three Rivers Levee Improvement Authority  
17 has backed off from their original commitment of May 19th,  
18 2006, or not. But that's something that we could address  
19 as part of item -- Roman numeral IV, under Agenda Item 3B,  
20 which is the revised TRLIA Financing Plan. If we could  
21 get the facts and then maybe come back to this.

22 VICE PRESIDENT HODGKINS: That's why he's the  
23 chair of the Board. And that's exactly the way I think we  
24 should proceed. And that's really the whole purpose of  
25 these hearings.

1           MR. FOLEY: Final word. The Reclamation Board  
2 will act aggressively, use their powers and their  
3 authority to get that promised \$35 million is now gone --  
4 is not available to the public. Separate from the bond  
5 issue, if you have that power, you have authority to keep  
6 to their promises, why don't do it? Separate from the  
7 bond --

8           SECRETARY DOHERTY: So in other words, you want --  
9 if they don't have that 35 million -- the project stopped.

10          MR. FOLEY: The Board -- I can not guide the  
11 Board. The Board takes the necessary actions to the best  
12 of their abilities. As I said, to the best of their  
13 abilities, they take the necessary action and see if --  
14 that's a pool of money. Somebody's going to get hurt by  
15 that. It's also based -- in the transcript, that promise  
16 was made. Your Board had questions. I went through the  
17 transcripts. Rose Marie Burroughs was very hesitant that  
18 day. But there were promises made for you to move ahead.  
19 But you don't have the money, everything else is talk.

20           Thank you.

21          VICE PRESIDENT HODGKINS: Okay. And I -- so I  
22 think a fair question to address later in this  
23 presentation is, what are the commitments from Three  
24 Rivers here in terms of bringing money to this project?

25           Mr. Archer?

1           MR. ARCHER: Rex Archer from Linda. I've been  
2 before these boards a few times on these matters.

3           First we have to clarify a permit, 18095GM. Now,  
4 that permit is the permit -- I don't have a big map, but  
5 up here is the Linda levee. That permit covers from down  
6 here, at the E Street Bridge, where you cross it, up to  
7 Simpson Lane. That's what we are talking about now. That  
8 levee up there.

9           In August -- August 7th of 2006, the Department of  
10 the Army Corps of Engineers sent a letter to the general  
11 manager of the Reclamation Board. And it said, we have  
12 reviewed this application of 18095GM, and it calls for  
13 approximately 4,100 linear feet and flattening the water  
14 side slope to a three-to-one grade and placing riprap,  
15 that's those giant boulders, along approximately 400  
16 linear feet of the water side slope of the left bank levee  
17 of the Yuba River.

18           So what all that said was, that permit that they  
19 were issued said that they would flatten this levee, where  
20 the levee broke in 1986, do a three-to-one slope. Now,  
21 what that means is, the levee sets like this. They want  
22 it more so, three to one. I'm not an engineer, as I was  
23 told by Mr. Carter. I am an engineer prior. But anyway,  
24 that's what engineers look at. They want it right here.

25           The other part, the large riprap, goes down here,



1 at the corner, under the E Street Bridge, where the levee  
2 turns by shad pad -- the Shad Road area. It turns and  
3 goes south and it runs into the Feather River Boulevard.  
4 Right in that corner, under that bridge, is where those  
5 giant riprap boulders were to be placed to stop this Yuba  
6 River, right here, from hitting that and washing out that  
7 levee.

8 Now, these things weren't done by the Rec Board,  
9 by anybody. They were done by Three Rivers asking for  
10 that and that and this little sand berm. They were asking  
11 those three major items to be done, under that permit, for  
12 the safety of Linda, Olivehurst, Plumas Lake and others,  
13 south of here. When that levee breaks, the water pools up  
14 down here. Everybody gets flooded in between.

15 It is not a Linda levee. It's called that because  
16 it's in Linda. But when that levee breaks, it goes down  
17 there. We don't need models on a table to show that. We  
18 saw that. It broke in '86. I was standing on it. It  
19 went down, where I told you it pooled up down there for  
20 several weeks.

21 Now, what I'm getting at, that permit was sent  
22 over there to the Corps -- to the Reclamation Board. They  
23 got it and acted on it, on August 24th. Three weeks later  
24 the Corps said, it's a good one; the Rec Board says it's a  
25 good one.

1           It's gone. They don't have construction tables,  
2 they say. That particular one says No. B, which is -- I  
3 believe B is a total of 400 feet of treating the side of  
4 the levee, like I said earlier, bringing it back to where  
5 it belongs. Now, B was to take from August 1st to August  
6 the 30th, 30 days.

7           This is not anybody's schedule except Three  
8 Rivers'. They sent it. The Corps of Engineers accepted  
9 it. The Rec Board accepted it and it moved on.

10          Then, No. E. E at that time said a slurry wall  
11 from behind Wal-Mart up to Simpson Lane, and a sand berm.  
12 They put the slurry wall in, up to Simpson Lane and said,  
13 "We're all done. That's the end of the permit." I, under  
14 the Freedom of Information Act, found out, there was more  
15 to that permit than what they gave to the public.

16          That's why I say they are not doing right by the  
17 public. They are not the people that should be running  
18 these levees, because these permits were issued to protect  
19 me. They said they completed those issues. I stated last  
20 week at the Rec Board meeting, I told you folks, seven  
21 times they told everybody that that levee, here, is  
22 completed. It is completed to the way Three Rivers does  
23 levee work.

24          What they do is they get a permit from the Corps  
25 and the Rec Board. Then they expect nobody to look at it.

1 It's out of the way. Nobody can see them doing the work.  
2 But I know levee work. I worked on that levee. I was the  
3 president of that levee for seven years. And I was --  
4 worked in the sheriff's office around and about,  
5 associated over 20 years. I know how to investigate. I  
6 went up there and I said, "This work is not done, but they  
7 say it's done." I come before different boards, including  
8 Board of Supervisors, the Three Rivers Board, and I tell  
9 them these things. "No, Rex, you're wrong."

10 Go up there now, the work is not done. It has not  
11 been done. It is not going to be done, because they won't  
12 put the money in that levee. And when they do, it's going  
13 to cost so much. It's such an outrageous amount of money.  
14 But why don't they just be fair and say, "We can't fix  
15 that levee. We don't have money enough." It's the most  
16 sorriest place in the world to put a levee, number 1, but  
17 don't come forward and say, "We finished that levee. It's  
18 safe, guys. Don't worry about it."

19 Mr. Logue, talking to a bunch of Hmong one time, a  
20 bunch of good people. Says, "I'm going to fix the levee,  
21 a 200-year levee, so you guys can sleep." He couldn't  
22 speak their language, but he could say "sleep."

23 Now, he's telling all of us, we can sleep,  
24 Mr. Vice President. I do not like the position they put  
25 me in. That position is still there today, and they will

1 sit on there. Right now, Mr. Shapiro will sit there and  
2 say, "Rex, you're wrong," because that permit is not  
3 legal.

4 Now, let me ask you guys: We know that levee has  
5 to be done. It needs to be done. So are you going to say  
6 we didn't do it because you wouldn't let us raise the  
7 levee three inches? You wouldn't -- we're not going to do  
8 it because you, Mr. Jay Punia, you're a fine man, did not  
9 get a paper in the mail from those people? And that's  
10 what they are telling you now, and you are telling Rex  
11 Archer. We didn't get a paper in the mail that said a  
12 drawing, Mr. Shapiro.

13 They didn't get it, so we can't fix that levee.  
14 Nevermind the 50,000 people that might get flooded.

15 Now, you said in here, somewhere, that you put two  
16 monitoring wells at that sand berm. That sand berm we're  
17 speaking of now is site No. 1. You guys gave it a name.  
18 The big sand berm is No. 2. Site No. 1, that I caught you  
19 at, and I said, "You didn't fix it," so you rushed and you  
20 called. Mr. Bradley isn't here. You called him. He gave  
21 you a variance permit. You ran up there. You didn't put  
22 a sand berm in, you dumped sand on the ground, period.

23 I showed you pictures of it. I showed it to the  
24 Board last week. I sent it to the Corps of Engineers.

25 And I said, Mr. Reinhardt says, "You guys guided

1 us on this."

2 So I said, "Did you really guide him?" And you're  
3 piling a bunch of sand in the middle of the floor and  
4 calling it a sand berm.

5 Sand berm, I told you last week, because I learned  
6 it from people. I didn't know these things until I got  
7 involved with you guys. But look, that sand berm, that  
8 thing, is that flat on the ground. It's supposed to go up  
9 like that and hook to the levee.

10 It doesn't do it. It's that far away from the  
11 levee. In fact, you now have a fence around it so that it  
12 can't. So when the water comes through there, the reason  
13 you took that sand berm -- it's just going to go over the  
14 land and push your sand out of the way.

15 But you completed that sand berm. You said  
16 numerous times, you completed the Linda levee. You go  
17 over there, I can show you, I have taken members of this  
18 Board of Reclamation over there. We walked them, and they  
19 said, "Where's this supposed to be?"

20 I said, "Right there."

21 "But there's nothing there."

22 And I says, "That's what I'm telling you. They  
23 didn't do it."

24 So because they didn't get a paper sent to them,  
25 you are telling me, you are not going to fix the Linda

1 levee. You didn't fix it. You had three months. And  
2 right in here, it told -- I told you earlier, right in  
3 here, it says do number A 30 days from September the 1st  
4 to September the 30th; do number B from August 1st through  
5 August 30th; do C and D, July the 1st. Well, that won't  
6 work. That's raising the levee. They didn't let you  
7 raise the levee. No. E was to take 120 days. Slurry wall  
8 and levee raise. It's all laid out right there.

9 But you say, "This is no good," even though it was  
10 signed by the Corps of Engineers on August the 7th and  
11 sent to the State Reclamation Board and signed off August  
12 the 24th as a good one. It was still a good one until  
13 last month.

14 Nobody questioned whether that was a good permit  
15 or not. But when I caught you guys not doing those works,  
16 like you were supposed to do, you got together and you  
17 said, "What can we do? How can we fix this? Let's say we  
18 didn't get a paper," or whatever.

19 But nonetheless, shame on the bunch of you. There  
20 are old people. There are schools there. And it happened  
21 in '86. It's not like something Rex Archer is dreaming  
22 up. This is something that's going to happen.

23 Now, let me tell you the worst of all. You don't  
24 even know this yet. You know it, but you kept it to  
25 yourself. That levee is slumped like this. Everybody

1     ought to know what a slump in a levee does. When the  
2     levee slumps like this, the bottom of it went somewhere  
3     because it's flat, and it can't go anywhere. But when it  
4     slumps, it went somewhere.

5             Now, we've only had high water in '95, '96, '97,  
6     '98, winter. So one of those two years, that levee eroded  
7     out from under it, through those rocks that nobody wants  
8     to hear about, those boulders. Them things have holes in  
9     them that big, because I saw them when they dumped them.  
10    They didn't land in perfect square things. They landed  
11    cattywampus.

12            Now, this water, in one of those two winter years,  
13    went through there, took levee with it. Now, how did you  
14    guys cover that up? It was crafty. But I, being an  
15    ex-cop and bringing so many fellows to prison and whatnot,  
16    you left that there, like that, and you made a road, and  
17    you covered it with asphalt like that. You covered it  
18    with asphalt.

19            Now, when you go out there now and you go out  
20    there and look, you see a perfectly straight road. But  
21    you see the asphalt start here and grow. Sloppy.

22            But the thing of it is, that's why you have no  
23    rights, no business being in the levees that protect Rex  
24    Archer. The way we've done it forever and ever, before we  
25    needed 200-year levees for housing, down in Plumas Lake

1 and other places. Before we done that, we had the Yuba  
2 County Water Agency that wasn't loaded with supervisors,  
3 but had other people there too, that used their head.

4 They took that money, they searched money, they  
5 got money, they done our share. They got the state's  
6 share and they got federal share.

7 No private developers, no private car dealers, no  
8 private nothing. The state, the federals, the Rec Board  
9 overseeing our money, which there's tax money in there,  
10 Mr. Vice President.

11 I don't know if -- there's another strange thing.  
12 12,950-some thousand dollars was paid to Nordic Industries  
13 to do that slurry wall. Is that high, or does that  
14 include all the way and doing these levee things I just  
15 told you about.

16 And if it didn't, if it was 12,900 and something,  
17 to do all work, and they only done part of it, who got the  
18 other 6 million? Or did he give you back 6 million? Or  
19 is there something else I'm not seeing here?

20 VICE PRESIDENT HODGKINS: Mr. Archer?

21 MR. ARCHER: Are you about done?

22 VICE PRESIDENT HODGKINS: You kind of wandered  
23 from the points on the permit, which I think you made.

24 MR. ARCHER: Sir?

25 VICE PRESIDENT HODGKINS: You have wandered away



1 from the points on the permit to other questions you have  
2 about what they are doing work and not --

3 MR. ARCHER: Mr. Vice President, everything I'm  
4 saying at this second includes those permits, including  
5 when they done that slurry wall and they only done half of  
6 it, and they got paid for all of it. That is under that  
7 permit, sir. But I am through now, unless you have a  
8 question.

9 VICE PRESIDENT HODGKINS: Thank you.

10 Do you want to respond to those, please.

11 TRLIA EXECUTIVE DIRECTOR BRUNNER: We do have some  
12 responses on it. And I have a few comments I wanted to  
13 share. Scott does and so does Ric, in response to some of  
14 the items that were raised.

15 The -- for Three Rivers, we believe that the  
16 levees were built safely and correctly, as identified in  
17 our paperwork. He described very accurately the work that  
18 we've done, to the Rec Board. At the last meeting, that  
19 was just last Friday, we went through a very long  
20 elaborate discussion. In fact, Rec Board staff gave a  
21 briefing and a presentation, the work that we've done on  
22 the project, which specified and shared what we did on it,  
23 at least in the order and accomplishment of the work.

24 We described here on the topic as to the work that  
25 we've done. We'll make a couple comments.

1           For Three Rivers, we stand behind what we say and  
2 what we presented in our project on it.

3           So Scott, do you have a couple comments?

4           LEGAL COUNSEL MORGAN: Well, I want to make sure  
5 the record clear is on these items. We were speaking  
6 about Permit 18095, which is the aerial that's up on the  
7 screen. For the record, it's the second of the two  
8 aerals in the PowerPoint.

9           And the issue was raised by Mr. Archer that the  
10 initial application for the permit indicated regrade slope  
11 work would be done in August. And he is correct, it was  
12 not done in August. It was done in October. But it was  
13 done before the flood season. We weren't able to get it  
14 done in August due to other issues.

15           There was a second issue raised, that the Cemex  
16 berm was supposed to be constructed by the flood season.  
17 I think we have now said, in two or three briefings, it  
18 wasn't. We could not get permission from the Cemex  
19 company to get in and put sand on that property. That  
20 permission came on January 22nd, and at that time, we put  
21 the seepage berm in.

22           The other issue that seems to be of focus today is  
23 the fact, the piece of paper which Mr. Archer has, says  
24 we're going to raise the levee and we're not doing that or  
25 grading the levee off the resection. And as the Board

1 knows full well, the Board has declined to give us  
2 permission to raise the levee at this time. There's been  
3 substantive discussion statewide on how levees should be  
4 raised and hydraulic impacts to be measured. We're aware  
5 of that dialogue. We're engaged in it, and we hope to get  
6 permission to raise it, when the time comes.

7 But what may not be clear to the public, and it's  
8 important for the public to understand, is the issue with  
9 raising the levee is, once you have raised the height of  
10 the levee, the current slope may no longer meet  
11 three-to-one standards, without having to raise the levee.  
12 Regrading it doesn't have the same urgency and isn't  
13 necessarily more important.

14 And I will hand it to Ric Reinhardt for some  
15 additional points.

16 TRLIA PROGRAM MANAGER REINHARDT: Point of  
17 clarification on the slope. The existing slope from  
18 Highway 70 to the Union Pacific Railroad is 2.7 to 1, not  
19 3 to 1. Kleinfelder has done a geotechnical slope  
20 stability analysis and determined the 100- and the  
21 300-year is to be flattened.

22 The Corps has said that they support the  
23 certification. And Kleinfelder's conclusion, the 100-year  
24 water surface elevation, they said, for a matter of policy  
25 for 200-year, they want to see that slope flattened to

1 three-to-one. And so from a cost standpoint, while we  
2 don't believe it's a public safety concern, when -- if the  
3 Board or when the Board makes a decision on whether to  
4 allow us to raise that levee or not, we would go out and  
5 flatten that slope as part of one construction contract,  
6 rather than remobilizing again and doing work twice.

7 I would like to speak in a little detail.

8 Mr. Archer raised at the meeting, at last Friday's full  
9 Board meeting, about the seepage berm at the Cemex plant,  
10 that it was supposed to come up 10 feet up the levee  
11 slope. The 90 percent drawings, which was what the basis  
12 for our encroachment application did include that. It had  
13 the same design as downstream of the Union Pacific  
14 Railroad, where we had a seepage berm that then sloped up  
15 to the stability berm that tied into the slope.

16 The purpose of this seepage berm is to deal with  
17 underseepage effects, where it begins to grow, where it  
18 ties into our slurry wall.

19 In July 5th of 2006, Kleinfelder issued a memo on  
20 the seepage berm. I would like to just briefly read a  
21 couple of the conclusions from it. It says, the seepage  
22 berm analysis indicates that exit gradient below the 0.5  
23 threshold provided the ground surface at elevation 63  
24 higher.

25 The previous -- the 90 percent drawings, which I

1 apologize. I didn't have an opportunity to have it  
2 scanned and up on the board for you. The 90 percent  
3 drawings had the seepage berm top elevation ranging from a  
4 low of 65 to a high of 72. Kleinfelder's new design, that  
5 it was incurred by the Corps, and it became a part of the  
6 plan's issued permits, it didn't need to go any higher  
7 than elevation 63. Elevation 63 is the elevation of the  
8 ground out there. So from a practical standpoint, really  
9 nothing probably would have needed to be done.

10 The next bullet really gives you to why we took  
11 action. It says some rubble and woodchips were found in  
12 the upper few feet of soil, indicating the upper few feet  
13 may not meet the minimum weight requirements, which the  
14 0.5 grading criteria is based, and may be present in this  
15 rubble.

16 So our activities out there were to go out and  
17 remove those woodchips and that concrete rubble and  
18 replace it with the sand. So if you go out and stand on  
19 the site, what you see is something that's very close to  
20 that existing elevation out there. The elevation 63, we  
21 have taken out all of those woodchips and the concrete  
22 rubble and replaced it with adequate material.

23 The monitoring wells that were installed on the  
24 site, they come up 2 feet out of the ground. They have a  
25 steel encasing around them.

1           The only other item that I'd like to clarify is  
2   from the Board Meeting. Member Doherty asked me about the  
3   fence and was that a part of our project. And at the time  
4   I answered "yes." And what I found subsequent to  
5   answering that, is that the Cemex had a fence that was out  
6   there. And during construction, someone broke into the  
7   site, took one of the heavy equipment from Cemex, and ran  
8   it through the fence and stole some of our contractor's  
9   equipment. We replaced that fence with the existing --  
10   with the fences that's out there. Now that fence is  
11   located 10 feet away from the toe of the railroad spur,  
12   which is built into the levee. So it's actually about 15  
13   to 20 feet away from the levee toe. We believe it's  
14   necessary for -- to keep people from driving on the sand  
15   berm. But if the Reclamation Board has concerns about the  
16   fence, that's for other reasons.

17           SECRETARY DOHERTY: I'm glad you addressed that,  
18   because I was going to ask you again about that. Why  
19   would it be necessary to have that fence if the other  
20   berm, the long berm, is not fenced?

21           TRLIA PROGRAM MANAGER REINHARDT: The long berm is  
22   fenced. It has a fence that runs along the land side toe  
23   of it. I was out there yesterday.

24           SECRETARY DOHERTY: Oh, when was it put up? Just  
25   recently?

1           TRLIA PROGRAM MANAGER REINHARDT: I'm not sure.

2   On your way home today, it's just around the corner. You  
3   can take a quick look.

4           SECRETARY DOHERTY: Was the berm compressed? The  
5   long berm, was it compressed?

6           TRLIA PROGRAM MANAGER REINHARDT: Was it  
7   compacted?

8           SECRETARY DOHERTY: Yes.

9           TRLIA PROGRAM MANAGER REINHARDT: We had a problem  
10   with the soil that we were -- soil source was -- and what  
11   we found was when we compacted it, it degraded and became  
12   more fine than what our specification requirement had  
13   listed. So we worked with the Army Corps of Engineers and  
14   reached an agreement on how that material should be placed  
15   in a manner to meet its objective.

16          SECRETARY DOHERTY: So the little triangular berm  
17   at the cement yard, was it -- is it of the same  
18   composition.

19          TRLIA PROGRAM MANAGER REINHARDT: Yes, it is.

20          GENERAL MANAGER PUNIA: Jay Punia, General Manager  
21   of the Reclamation Board. I just want to clarify our  
22   procedure on how we do the final inspection on these  
23   permits. Rec Board doesn't have the inspectors. But DWR  
24   does the final inspection on the projects on behalf of the  
25   Reclamation Board. George Qualley is here. His staff and

1 the inspectors we will be finally doing the inspections to  
2 make sure that the permit work is done. And then they  
3 will close this permit. These are open permits at this  
4 time. The final inspections have not been completed yet,  
5 but it will be passed, and the inspectors will verify that  
6 the work has been done in accordance with the permit  
7 issued by the Reclamation Board.

8 And at that time, the permit will be closed. But  
9 at this time, all these permits are open permits. The  
10 department inspector has verified all the permits.

11 TRLIA PROGRAM MANAGER REINHARDT: I have one  
12 clarification on the location of the fence, for the  
13 seepage berm that's between Highway 70 and the UP  
14 Railroad, the land side toe of the seepage berm.

15 MR. ARCHER: I need to clarify --

16 TRLIA EXECUTIVE DIRECTOR BRUNNER: I would  
17 actually like to invite the Rec Board, if you would, to do  
18 a tour or something, of the facilities too, to go out and  
19 look at that particular area.

20 PRESIDENT CARTER: Could you please clarify with  
21 regard to the Cemex seepage berm, that material was placed  
22 and not just dumped. And the pictures that we saw at the  
23 last Board meeting, that Mr. Archer provided, showed what  
24 appeared to be spoils or piles that were dumped out of a  
25 dump truck or something like that. What did we look at



1 last time? Are you familiar with those? Do you recall  
2 those pictures?

3           TRLIA PROGRAM MANAGER REINHARDT: I'm not familiar  
4 with those pictures. There's -- the one difference  
5 between the Cemex berm and the berm between Highway 70 and  
6 Union Pacific Railroad is that we placed the topsoil on  
7 top of the sand berm, downstream of UP railroad, and that  
8 was put out to allow vehicles to be able to drive over it  
9 and not have other problems. I think the best thing to do  
10 would be to have our construction manager and have our  
11 lead engineer come in, from Kleinfelder, at the next  
12 subcommittee meeting, if you have questions on how that  
13 material was placed how it was compacted and things of  
14 that nature. I'm not prepared to answer.

15           MR. ARCHER: May I finish? And I will get done  
16 and out of your way?

17           VICE PRESIDENT HODGKINS: Please.

18           MR. ARCHER: To clarify Ric Reinhardt's statement,  
19 on the Linda levee, once again, down on the sides, he said  
20 they are 2.50 or whatever to whatever.

21           This is the Kleinfelder report from 2004. Now, I  
22 know he's done it recently, for Three Rivers. But this  
23 one is as good today as it was then, as far as flattening  
24 the side of the levees. Because you have not touched the  
25 side of those levees. The only thing that has touched the

1 side of those levees is rain and wind. Wind is wiping our  
2 levee -- it's eroding.

3 Now, he said, the calculated factors of safety for  
4 the rapid drawdown condition of 1.0 to 1.1. That's what  
5 they were in 2004, 1.0 to 1.1, Mr. Reinhardt.

6 And today, you are saying, they have room to 2.5,  
7 whatever your numbers were. It's impossible, sir, for it  
8 to grow unless you went out there and piled stuff on  
9 there, to straighten up the levee.

10 Go ahead.

11 TRLIA PROGRAM MANAGER REINHARDT: You are talking  
12 about two separate issues.

13 MR. ARCHER: No, I'm talking about this right  
14 here. Stability --

15 TRLIA PROGRAM MANAGER REINHARDT: Excuse me,  
16 Mr. Archer. Please let me respond.

17 You are crossing factor of safety for sudden  
18 drawdown with a slope. What I said is the actual physical  
19 slope is 2.7 to 1. It's not a factor of safety. That's  
20 just a physical description of how flat that slope is. I  
21 didn't speak to what the factor of safety is on sudden  
22 drawdown, except to say that Kleinfelder and the --  
23 Kleinfelder has included that it's not a problem. And  
24 that the Corps has concurred that, for FEMA certification,  
25 and we will be needing to do that to achieve 200-year

1 protection.

2 MR. ARCHER: So this rapid drawdown means nothing?

3 This rapid drawdown, I know you know it means something.

4 It was 1.0 to 1.1, sir, at that time. Let's go to this,

5 because it's important. 1.0 to 1.1. And that's what it

6 was in 2004. And it needs to be between 1.1 to 1.3.

7 Now, is that levee 1.3 now, or is it 1.1, or have

8 you checked that, sir?

9 TRLIA PROGRAM MANAGER REINHARDT: You are quoting  
10 from a report that's been superceded and so what you need  
11 to do is you need to go to the December 2006 Basis of  
12 Design Report. And I'm not familiar with what it says the  
13 sudden drawdown requirements are, but that's the report  
14 that you need to look at. This isn't work I performed.  
15 This is work that Kleinfelder and HDR did. And they are  
16 not here today to defend their analysis.

17 MR. ARCHER: The levee, in 1986, was failed by  
18 rapid drawdown. Now, it seems to me like that should be  
19 the thing you guys look at. And rapid drawdown is when  
20 the water is up against it and the water goes down and it  
21 takes the levee down with it.

22 Now, back to that slump, sitting there, right over  
23 the boulders. When that water comes up, if it ever does  
24 again, and when it goes down it's going to take that levee  
25 out. Linda levee is going to break there. And you guys

1 are going to say, "Levees break." But at least you should  
2 try to fix it. And at the very least, do not tell us that  
3 you are fixing them when you are not.

4           You haven't touched or -- could I ask you now,  
5 have you touched any side, of any waterside, of the Linda  
6 levee, from the bridge, Highway 70, up to the Union  
7 Pacific Railroad, behind Wal-Mart? Have you went in there  
8 and done any work? Any of you can answer. I mean, that  
9 should be easy, because you are all in charge of Three  
10 Rivers and whatnot.

11           TRLIA PROGRAM MANAGER REINHARDT: We've concluded  
12 that no work is required to.

13           MR. ARCHER: Sir, I can't hear you.

14           TRLIA PROGRAM MANAGER REINHARDT: We have  
15 concluded that no work is required for FEMA certification.  
16 The Corps of Engineers has concurred with that opinion.

17           MR. ARCHER: John Lewis has concurred -- or --  
18 yes, he's the only one.

19           TRLIA EXECUTIVE DIRECTOR BRUNNER: In fact, I  
20 would like to add to what Ric was saying. At the last Rec  
21 Board meeting, not at our request, but at the state Rec  
22 Board action, they have reissued a permit that would  
23 preclude us from doing work in that area, when we are  
24 ready to go forward to do it. There's a new permit for  
25 that area, between the reaches you are talking from,

1 Highway 70 to UPRR Railroad. Our current permit no longer  
2 authorizes us to do that work and it's not in that permit.

3 MR. ARCHER: You are not authorized to do work  
4 that will save 40,000 people? That's why I say you need  
5 to be out of here and let the government take it over.

6 TRLIA EXECUTIVE DIRECTOR BRUNNER: What we will be  
7 doing in that regard is that we -- they did modify the  
8 permit at the meeting because of the basic nature of our  
9 work and what we were authorized to do during the  
10 construction season, last construction season.

11 What Three Rivers will do is, we will work with  
12 the State Board staff and the Rec Board to proceed with  
13 our goals and achieving 200-year flood protection for that  
14 breach, between the UPRR and Highway 70. We believe it  
15 already meets the hundred-year protection. And it's under  
16 the certification process with the Corps.

17 MR. ARCHER: Hey, I can't talk with you people.

18 Thank you.

19 VICE PRESIDENT HODGKINS: Thank you, Mr. Archer.

20 Other comments or questions on the item, on the  
21 agenda? Please?

22 MS. HOFMAN: My name is from Frances Hofman. I  
23 live down in the mud flats, in southern Yuba County. All  
24 I want to know, is I received a handout and it had a  
25 permit number on it. Has that permit been amended?

1 Because you are all talking about this. The Reclamation  
2 Board said that they are going to inspect this levee. And  
3 all I'm asking, has this permit been amended to change the  
4 different kinds of material, the rock placement, that the  
5 Reclamation Board approved.

6 When you approved the permit, there was plans.  
7 Have those plans been amended by the Reclamation Board?  
8 If they have, shouldn't this permit carry an amendment  
9 number? Or I'm just asking, where are we? We've got like  
10 two sets of plans going on. And I just -- that's the  
11 reason I'm here.

12 SUPERVISING ENGINEER FUA: My name is Dan Fua.  
13 Reclamation Board staff.

14 You are talking about Permit 18095; correct?

15 MS. HOFMAN: That's correct.

16 SUPERVISING ENGINEER FUA: Okay. Let me clarify  
17 for everybody that, the chief engineer made a presentation  
18 last Friday. And it was made clear that 18095 only  
19 authorizes work between UPRR and Simpson lane. It is true  
20 that Three Rivers applied for work between Highway 70 and  
21 Simpson Lane. However, the Three Rivers did not submit  
22 the required detailed engineering design of its work. So  
23 the staff of the Reclamation Board did not authorize them.

24 MS. HOFMAN: Sir, could I ask just a simple  
25 question?

1           As I understand, the public said, in 18095, when  
2   the permit was originally issued, in the issuing of that  
3   permit, there was plans in which riprap was to be placed  
4   at a certain area.

5           SUPERVISING ENGINEER FUA:  There were plans, but  
6   they were not detailed enough for staff to authorize them.  
7   And that also includes the three-to-one slope under  
8   segment B.  Or I think you call it -- or is it A?  But any  
9   way, A, B, C, and D were not authorized, for lack of  
10  detailed engineering plans.

11          And we, staff of the Reclamation Board, admitted  
12  that we made a mistake on describing the location of the  
13  project.  It should have -- and that's -- that's the  
14  amendment that we made.  We corrected the location of that  
15  permit.

16          MS. HOFMAN:  It would really help the general  
17  public if -- it appears from this permit number, that  
18  things are completed.  The things that are not completed,  
19  the things that are still being decided how they are going  
20  to be done, should be listed.

21          What I want to know, and the reason I'm here  
22  asking this question, we have so many dollars budgeted.  
23  Do we need to go out and collect some more money in which  
24  to finish this, if there's any more work to be done?  
25  Should the general public pick up this thing and think

1 everything is completed?

2 What I'm saying is, it appears that there's things  
3 that's not completed. And that's why I made my comments,  
4 that it's not clear.

5 SUPERVISING ENGINEER FUA: This is Permit 18095.  
6 And essentially, the project location is between the Union  
7 Pacific Railroad and Simpson Lane. And the project  
8 authorized under this permit is the slurry wall, from UPRR  
9 to about 500 feet beyond Simpson Lane. The other project  
10 authorizes the resloping of the levee on the waterside,  
11 the three-to-one, again, between UPRR and Simpson Lane.

12 And the third component is the seepage berm, the  
13 triangular seepage berm near the Cemex plant.

14 Those are all. Three Rivers applied for more,  
15 between Highway 70 and UPRR, if you can give me that  
16 slide.

17 --o0o--

18 SUPERVISING ENGINEER FUA: So we were supposed to  
19 have some riprap west of Highway 70, resloping of the  
20 water side slope, after Highway 70, about -- I forget how  
21 many feet now, but it's not the entire levee.

22 Those were not approved, as I've said, because  
23 our -- we did not receive the detailed plans. So we did  
24 not issue a permit to that.

25 And again, staff admitted that when we issued the



1 first permit, we described it as from west of UPRR to  
2 Simpson Lane, which we admitted to be a mistake. And  
3 that's why we amended that permit, to correct that  
4 location. But even the original permit correctly  
5 described the authorized component of the project.

6 VICE PRESIDENT HODGKINS: I'm not sure I  
7 understand this, but I wanted to go through it one more  
8 time.

9 A application for a permit is submitted that  
10 included work. That was not approved as part of the  
11 permit? The work that was not approved was one at a time.  
12 The rock work, at sort of the point that's formed, where  
13 Highway 70 goes across the levee -- that was not approved.

14 SUPERVISING ENGINEER FUA: Correct.

15 VICE PRESIDENT HODGKINS: Raising the levee was  
16 not approved. Flattening the side slope to three to one  
17 was not approved.

18 SUPERVISING ENGINEER FUA: Correct. The Highway  
19 70 portion.

20 VICE PRESIDENT HODGKINS: Okay. From Highway 70  
21 to UPRR?

22 SUPERVISING ENGINEER FUA: It's not the entire --  
23 Ric, you can --

24 TRLIA PROGRAM MANAGER REINHARDT: Highway 70 --

25 THE REPORTER: I can't hear you.

1           TRLIA PROGRAM MANAGER REINHARDT:  You're correct.

2           VICE PRESIDENT HODGKINS:  Okay.  So it was in the  
3   description of work that was supposed to be done but not  
4   permitted, due to, at least in the case of some of the  
5   work, inadequate design.  In the case of the levee  
6   raising, the Board hasn't made a decision one way or the  
7   other on raising the levee.

8           Let me ask you folks, do you plan, still, to do  
9   that work?  Did I miss anything that was in the  
10  description of work but not the levee?

11          SUPERVISING ENGINEER FUA:  Those are the four.

12          VICE PRESIDENT HODGKINS:  Four is fine.  All  
13  right.  Do you still plan on doing the work?

14          TRLIA PROGRAM MANAGER REINHARDT:  Right now, we're  
15  waiting on the decision of the Board on raising the levee.  
16  When the Board makes that decision, we're going to go  
17  flatten the slope at some point.

18          VICE PRESIDENT HODGKINS:  Okay.  And so in your  
19  mind, at least, there's no need to flatten that levee  
20  slope, to three to one, unless the levees were raised?

21          TRLIA PROGRAM MANAGER REINHARDT:  No.  In order to  
22  achieve 200-year protection, it is required.  That's what  
23  the Corps has told us, is that it is not required to  
24  achieve 100-year protection.  So we don't need it to  
25  certify the levee, but we do need it to complete the

1 overall program.

2 VICE PRESIDENT HODGKINS: Okay. So there are four  
3 items here that we have had testimony on at several  
4 meetings, which finally has clarified they were never  
5 permitted in the first place.

6 They seem to hinge primarily on raising the levee,  
7 at least in the case of the three-to-one side slope. The  
8 rock at that point, where it is? Or that's it?

9 TRLIA PROGRAM MANAGER REINHARDT: We're in the  
10 process of doing a two-dimensional hydraulic modeling, in  
11 conjunction with the Corps to make a determination of what  
12 erosion repair requirements are going to be needed to be  
13 made as part of this project. Right now, I'm not aware of  
14 any erosion problems that need to be fixed in this reach,  
15 in order to achieve 200-year.

16 VICE PRESIDENT HODGKINS: Okay. All right.

17 Thank you. Other public comments? Thank you.

18 SECRETARY DOHERTY: I need to know, when you are  
19 talking about redoing the slope, are you talking -- if I'm  
20 looking north, are you talking about that small segment to  
21 my left, or the longer segment to my right, all the way  
22 down to the Southern Pacific Railroad?

23 TRLIA PROGRAM MANAGER REINHARDT: I think much of  
24 the slope in that reach is three to one, and it's uneven.  
25 There are portions that are steeper. And so I think it's

1 intermittent.

2 I would be happy to prepare a figure and put it in  
3 our monthly report when we come before you in April, so  
4 that you can see exactly where the slope flattening needs  
5 to be.

6 SECRETARY DOHERTY: And so the stone placement  
7 was, once again, looking north, to the left side of that  
8 Highway 70?

9 TRLIA PROGRAM MANAGER REINHARDT: My recollection  
10 is that, in the application, which I don't have here,  
11 before me is that the rock protection was around the  
12 Highway 70 embankment.

13 VICE PRESIDENT HODGKINS: All right. I think  
14 we're ready to move on to the next item on the agenda.

15 THE REPORTER: Could we take a five-minute break?

16 VICE PRESIDENT HODGKINS: Yes, it is, according to  
17 my watch, 2:30. We will resume at 20 minutes to 3:00.

18 (Thereupon a break was taken in  
19 proceedings.)

20 VICE PRESIDENT HODGKINS: Can we come to order,  
21 please. We are now moving on, after an exhausting  
22 discussion on the permit status, but what I hope in the  
23 end, has everybody in a position where they understand  
24 where we are and that we are not necessarily done fixing  
25 the levee on the Yuba, but everything that's permitted

1 here has been completed.

2 We want to move on to B, which is status and plans  
3 for Phase 4 of the Feather River Improvement Program.

4 On this item, we're going to go through these one  
5 at a time, offer the opportunity for comments. We are  
6 going to time ours. We are not going to impose a formal  
7 limit, but when we hit five minutes, we are going to try  
8 and attract your attention and ask you, out of respect for  
9 the rest of us, to try and wrap up.

10 So Jay's going to be our timekeeper, and we want  
11 to go ahead and move forward. The first item on B, which  
12 is Status and Plans for Phase 4 Feather River Improvement  
13 Program, is the status of the State's review of the  
14 hydraulic analysis.

15 Qualley, could you update us on this and tell us  
16 what your position is on that?

17 MR. QUALLEY: Okay. Over the last several weeks,  
18 DWR staff has been engaged in discussions with TRLIA  
19 technical staff and consultants regarding hydraulic  
20 analysis for the proposed Feather River setback project.  
21 Our primary interest was to ensure that the hydraulic  
22 modeling, or ensure ourselves that the hydraulic modeling  
23 was consistent with standard practice, and look at the  
24 assumptions and analysis that was done, and particularly  
25 in connection with the reduction associated with the

1 setback levee. That's obviously a very important part of  
2 it, the analysis associated with that project.

3 We knew that there -- I want to talk a little bit  
4 more about the global issues later. But we knew that the  
5 model that was being used by MBK Engineers was one that  
6 was based on the Corps model, and that he had recalibrated  
7 it, using some additional professional data.

8 And the recalibrated model produces different  
9 water surface profiles. The one thing we were interested  
10 in was, in comparison of -- you know, without project,  
11 with project, for various types of assumptions, whether  
12 there was consistency between the model that was -- that  
13 MBK recalibrated the model and the Corps model.

14 Now, associated with this, the Department and  
15 TRLIA and a number of entities have been requesting the  
16 Corps for some time, to look into this, themselves, and  
17 look at the MBK model and do their evaluation in detail.

18 They had done kind of a cursory evaluation of the  
19 model. They haven't done a detailed evaluation yet. So  
20 we've had discussions with the Corps recently, where they  
21 have committed to look at the model. There was some  
22 funding we provided a while back. For a while, we  
23 couldn't find a way to get to it. Sometimes you got a pot  
24 of money there, and you can't figure out a way to make use  
25 of it. But they have attempted to do it, and we haven't

1 established a schedule yet.

2           So in our discussion with TRLIA and MBK, we  
3 indicated that we were really interested in seeing the  
4 comparison of, you know, how the -- how this comparison  
5 would look using the Corps model versus the direction that  
6 they were showing and the water surface profile they were  
7 showing, with the recalibrated model.

8           So they have volunteered to do that run. And I  
9 don't know how long it's going to be until the Corps does  
10 that. So we talked the other day. They mentioned they'll  
11 do that. And so we'll be looking forward to seeing --  
12 going through the results. They expressed confidence that  
13 they will verify that. So we will look at that when we  
14 get it.

15           On the larger global issue, in fact, this was a  
16 topic that was touched on at the workshops that the Board  
17 had a couple weeks ago, on hydraulic mitigation. The idea  
18 that, you know, some public entity, whether it's the  
19 Corps, Department of Water Resources, whoever it would be,  
20 really good if some entity like that could be more of a  
21 keeper of the model for different areas. And this isn't  
22 just for you. It's for different areas in the Central  
23 Valley, that we're modeling, as we move forward with our  
24 education, planning and, you know, looking towards the  
25 number of projects to improve the functioning of the

1 system.

2           And the day before, they had mentioned the same  
3 thing at the workshop. So I just wanted to mention to the  
4 Board, today, that we are going to be engaging in  
5 discussions with the Corps, amongsts ourselves, to try and  
6 make that happen, because we think that is appropriate.  
7 And these projects are really important, and the models  
8 that are used are not only that it's software that's  
9 accepted by the Corps, but the calibration -- as it goes  
10 through time, there's additional information that becomes  
11 available, additional surveys that get done, as we have  
12 high water incidents, high water events, there's  
13 additional high water data. So we want to make sure that  
14 that information gets incorporated into models, in  
15 different areas as it goes along.

16           So we're going to be, like I said, looking to find  
17 a way to, you know, make sure that happens, whether  
18 there's a way to have a model that's available for  
19 whichever entity is in certain areas.

20           So in summary, in our review of the model to date,  
21 the Feather River levee setback, we're comfortable with  
22 the methodology that MBK Engineers is doing with the  
23 modeling. We haven't seen any flaws that their approach.  
24 And currently, we're just interested in seeing this  
25 comparison growing and what they are going to do with the



1 Corps modeling, to assure ourselves that the analysis  
2 tracks relative with that project versus the Corps project  
3 in reference to the models.

4 So that's all the comments I have for now.

5 VICE PRESIDENT HODGKINS: Okay. Thank you.

6 George, what I hear you say is that basically, so far,  
7 there's no reason to necessarily suspect that there's big  
8 problems, but if you are being really careful in this and  
9 are bringing the Corps in to help DWR and for that matter,  
10 TRLIA. Be certain that the monitoring results we have  
11 here are reflective of what we would expect if we did some  
12 of the things elsewhere in the system and try to think  
13 about getting the system going; is that correct?

14 MR. QUALLEY: Yeah, and this is probably going to  
15 be one single systemwide model. I mean, you will have it  
16 calibrated for different parts of the system but if --  
17 being whatever -- you know, whatever reach of the system  
18 is being looked at, if there's a model, whether it's the  
19 local entity, the consultants, or state or federal  
20 government, we kind of agree that it is the model that we  
21 want to use to do the analysis.

22 VICE PRESIDENT HODGKINS: Thank you.

23 One comment that I think I'd like to make is, DWR  
24 chief of flood management comes monthly and gives the  
25 Board a status update. I wonder if we could get the

1 status of the response to the model, what the status of  
2 that is. Because we're coming up on a time where modeling  
3 is comfortable and money is available.

4 MR. QUALLEY: I can certainly talk to Rob about  
5 that, and keeping in mind that it's not just with respect  
6 to this project. It's something that we'll deal with on  
7 virtually any of the projects that will be coming to our  
8 attention.

9 VICE PRESIDENT HODGKINS: Thank you. Now, are  
10 there questions from the board or staff on this?  
11 Questions?

12 PRESIDENT CARTER: Mr. Qualley, were you involved  
13 at all or what -- was the hydraulic modeling used to  
14 define the actual path of the setback? Are the hydraulic  
15 considerations done after the relocation of the levee is  
16 put in, or does it drive where the location is put of the  
17 levee, the setback?

18 MR. QUALLEY: I wouldn't be able to respond to  
19 which came first, whether we did ask the applicant that.  
20 I guess the question is whether alternative modeling was  
21 done to determine how far back is the appropriate place to  
22 put the setback levee?

23 VICE PRESIDENT HODGKINS: Can you answer that?

24 TRLIA PROGRAM MANAGER REINHARDT: We evaluated  
25 several alternative alignments, and they were based

1 largely on two criteria. One of them is hydraulics, how  
2 they affected water surface both up and down the setback.  
3 But the other, probably more overriding consideration, was  
4 foundation conditions.

5           The existing Feather River levee in this reach  
6 overlays very sandy soils, old channels, and we wanted to  
7 move the levee to a location that had better foundation  
8 conditions. And so the selected alignment has the best  
9 foundation conditions of all of the alignments that have  
10 been considered.

11           PRESIDENT CARTER: Is there -- how precise is the  
12 foundation analysis? I mean, if the levee is moved a  
13 hundred feet to the east or a hundred feet to the west,  
14 does it -- I'm just wondering, how magical is this line  
15 that we've drawn on this map, here?

16           TRLIA PROGRAM MANAGER REINHARDT: The western  
17 limit of the line is based on -- we took borings running  
18 from west to east, to look at how the foundation varied as  
19 we moved it farther from the east.

20           And so we took -- we selected an alignment from a  
21 geotechnical perspective. Before we looked at the  
22 hydraulics -- that was an alternative, on how far east you  
23 could go before you hit the slope. You could go farther  
24 west and make the setback even bigger. But that's as far  
25 as we need to go to hit a better foundation condition.

1           PRESIDENT CARTER: So you are saying, it would go  
2 farther east, but it's not advisable to be farther west?

3           TRLIA PROGRAM MANAGER REINHARDT: That's correct,  
4 without incurring additional costs and poorer foundation  
5 conditions.

6           PRESIDENT CARTER: Okay. Thanks.

7           VICE PRESIDENT HODGKINS: Questions from the  
8 public on the model?

9           MR. HARRIS: Thank you. Tom Harris, Hofman Ranch.

10          There's nothing more critical to what Three Rivers  
11 is doing than getting an appropriate hydraulic modeling,  
12 however the scientists the engineers, and those who border  
13 on the occult put it together. And it's disturbing, under  
14 a public safety perspective, that projects are proceeding  
15 with this much confusion and lack of precision, if that's  
16 the right word, on the hydraulic impacts, both intended  
17 and unintended.

18          The workshop, I thought that the Board held here a  
19 couple of weeks ago was outstanding on that point. And I  
20 hope that the Board will continue to look at what is  
21 contained in that document.

22          Now, I mean this with all due respect to Three  
23 Rivers. MBK works for Three Rivers. It's employed by  
24 Three Rivers. It's an advocate for Three Rivers.

25          What's needed here is either some peer review by

1 an independent engineering firm, that is an expert in  
2 hydrology, separate and distinct from the Department of  
3 Water Resources and the Corps of Engineers.

4 Mr. Foley, who has spoke before you many times has  
5 suggested, there is a group of intellectuals, at UC  
6 Berkeley available. I have no idea what they cost, how  
7 much time they take, or whatever. But it may be helpful  
8 for the Board to get independent look-see here as to what  
9 the presuppositions and the suppositions and the  
10 assumptions are, for purposes of doing a setback levee, on  
11 the Bear River, which we have challenged many times.

12 Do we really know the hydraulic impacts of that  
13 setback, much less what you are looking at today, in the  
14 Feather River setback? And what are the unintended  
15 consequences with respect to those hydraulic impacts,  
16 whether they are upstream, downstream across from the  
17 levee that is being created at a setback?

18 And let me remind the Board that I believe the  
19 CEQA analysis and the permit that is going to be requested  
20 here is under state law, not under federal law, as in a  
21 408 permit.

22 And you know, I had been concerned that this  
23 project is out of sync. It's proceeding as if this was a  
24 state control project, and they are going to do it as a  
25 backup levee. That's the euphemism of the day, which will

1   magically convert to a setback levee at a point in time  
2   when it can be completed as a backup levee. And then the  
3   request will be to get the appropriate permits to tear  
4   down the old levee.

5           Now, I have no idea what the hydraulic impacts of  
6   that kind of step and phasing and sequencing is, if any.  
7   But I can tell you that there is great concern from the  
8   standpoint of public safety, that the Board has this one  
9   shot for purposes of an overall -- I don't know whether  
10   you want to call it a base model that's going to have  
11   nuances that are site specific or what.

12           But I would strongly recommend, and I have the  
13   greatest respect for MBK. But we really do need to have a  
14   peer review. We need to have an independent look, perhaps  
15   from the Berkeley folks, in order work to with the  
16   Department of Water Resources and the Corps of Engineers.  
17   And you might as well throw FEMA into there, because  
18   again, I am concerned about the unintended consequences.

19           Thank you.

20           TRLIA PROGRAM MANAGER REINHARDT: Ms. Hofman, just  
21   a point of clarification. I just want to make it clear  
22   that the model was reviewed by the Corps of Engineers.  
23   What comes into question is how much detail they put into  
24   the review of calibration. But they submitted comments.  
25   They responded to those comments. I just wanted to make

1 clear that this work was not done in a vacuum.

2 VICE PRESIDENT HODGKINS: I too have one comment.

3 And it has to do with the word "precision" in the same  
4 sentence as the work "hydraulic modeling." And while the  
5 engineers will argue for months about the modeling  
6 difference of a couple tenths, it's important that people  
7 not forget that that is potentially the kind of change  
8 that would be easily the result of trees stacking up  
9 against a bridge, erosion that takes place during a major  
10 storm. There is no precision in hydraulic modeling.

11 What you get is guidelines and an understanding of  
12 how the hydraulics are going to be affected. But it's the  
13 very reason there are freeboard on levees.

14 And so, I will get off of it for now.

15 Any other comments from the public?

16 MS. HOFMAN: I think I turned a card in.

17 My name is Frances Hofman, and I'm appearing for  
18 myself as well as Hofman Ranch.

19 I'm one of the victims of the Army Corps of  
20 Engineers's genius in 1936. They put in a project, and it  
21 was state of the art. We're still fighting it, and I hear  
22 the same rhetoric going on today, that the minutes reflect  
23 back in the 1920s. I went to TRLIA and I asked them for a  
24 signed statement that you said that this setback levee and  
25 all the work they were doing would not increase the water

1     that come up on my ranch.

2             I have been waiting for nine months for that  
3     letter.  What I got is a statement that they done -- that  
4     the FEMA map is wrong.  The FEMA map shows that my entire  
5     ranch is flooded, which is worse than it's ever been.  So  
6     I have FEMA telling me I've got a disaster.  My entire  
7     ranch is going under water.  TRLIA is telling me that it's  
8     going to be better, but I don't have a letter.

9             But they are telling me that more water will come  
10    into the Feather River from the Yuba River with the  
11    setback.  I want to know, from your studies, how much --  
12    the percentage of water, the day before the 1986 flood,  
13    would be coming into that Feather River from the Yuba  
14    River.  Because we were drowning the day before the flood  
15    come.  It got higher, but there wasn't much left.

16            And what I want to know is, when you put this  
17    additional water into the Feather River, what does that do  
18    to the interceptor?  Is there enough capacity two miles  
19    down, from the interceptor, Bear River, Feather River, and  
20    Plumas, to take this water?  I've asked TRLIA what the  
21    percentage of the increase of the flow of the Yuba.  I get  
22    zero answers.

23            What I'm saying is, we need to study the entire  
24    thing.  We have TRLIA that started out at 25 million, are  
25    now up in the many hundreds of millions.  Nothing is done.



1 This is piecemeal. It's like a lady that's trying to  
2 build a quilt, and she only has scraps. We know the quilt  
3 is horrible when it gets done.

4 What I'm saying is, I'm down there, at the bottom.  
5 And when you ask TRLIA for a hard answer of the percentage  
6 of increase of water, from that Yuba River into the  
7 Feather, because that's going to affect the Bear. It's  
8 going to affect the interceptor. There's no capacity down  
9 there now. There was no capacity below the Bear and the  
10 Feather. That's why it passes in, today, into the  
11 interceptor.

12 If the Bear could flow freely, and the Feather  
13 could flow freely, the interceptor couldn't come back.  
14 Now we're going to open it up so more water comes down  
15 there.

16 What I'm saying is, give me some hard answers.  
17 And if you -- if the engineers are going to give hard  
18 answers as to what's going to happen -- and I understand  
19 it's five minutes. And when I said that they are going to  
20 give me some hard answers, let's back it up with a  
21 signature and a number, instead of giving me one of these  
22 things that God only knows. And it's like the chairman  
23 today said, you get all different kinds of answers.

24 What I'm saying is, if we have all this capacity  
25 below the interceptor, below the Bear, in the Feather, why

1 is the Bear not able to get out into the Feather?

2 Thank you.

3 VICE PRESIDENT HODGKINS: Thank you, Ms. Hofman.

4 This is a hydraulic mitigation question.

5 Anyway, let us move on.

6 One more question?

7 MR. RICE: On the hydraulic, yes, sir.

8 Thank you. I will be brief. This is referring to  
9 Mr. Reinhardt's comments about samplings and data that we  
10 have, as far as east-west placement. With all due  
11 respect, Mr. Reinhardt -- I'm sorry. Thomas Rice, Rice  
12 River Ranch.

13 With all due respect, Mr. Reinhardt, we do not  
14 have all the data. I have an illustrated example that I  
15 have a parcel. It's under the extreme edge of the current  
16 design path. From the very beginning, I was one of the  
17 few who made available appropriate access to my parcel,  
18 for surveying, for soil testing, for sample boring, and  
19 even to consider the features and values.

20 I made this offer repeatedly, all documented.  
21 First to TRLIA and then to Bender Rosenthal. Yet to date,  
22 not one on-site visit has been performed. All the design  
23 work in this area was done from aerial maps, which they  
24 have admitted to me, without the benefit and even the  
25 necessity for on-site validation and confirmation.

1           At an in-person and direct meeting with me on  
2   March 7th, their engineer, Larry Dacus, actually admitted  
3   that no on-site work has been done for a significant  
4   length of the proposed setback. The nearest work was  
5   hundred of feet away in a nearby orchard. The engineer  
6   even pointed this out to me on my map, showing an area  
7   near Ella to -- between Anderson and Country Club, where  
8   they had not done on-site examinations, borings, testings.  
9   They are planning to come back and do so, but after we  
10 already have a proposed design.

11           So with all due respect, how can we know where the  
12 proper east-west line is if we have not had the samples,  
13 if we have not had the due diligence to go and actually  
14 look at the soils, look at the borings, look at the  
15 structures and to say we truly know how much land we do or  
16 do not have to destroy before we make that decision.

17           We are already at the point that we have made,  
18 supposedly, some decisions and some designs without the  
19 data. And now how can we have the confidence, that if we  
20 go back and get the data, that we will have the courage to  
21 say we need to adjust our designs.

22           Thank you.

23           VICE PRESIDENT HODGKINS: Before you step down,  
24 could you show us on the map where your property is and  
25 where is the closest soil boring?

1 MR. RICE: Yes, sir.

2 VICE PRESIDENT HODGKINS: Do you have that?

3 MR. RICE: My parcel is here, labeled on Figure 1,  
4 is number 97. From this range, roughly, through to here,  
5 their engineer pointed as this being the area in what is  
6 known as the Naumes Orchard, where the nearest borings are  
7 done, approximately three to four hundred feet away. No  
8 sampling has been done, that they've admitted to, in this  
9 area, on the proposed foundation path.

10 How are we doing a design when our nearest data is  
11 farther away? This is another case where they do not have  
12 access and where access was repeatedly and often offered.

13 VICE PRESIDENT HODGKINS: Okay. Your parcel is  
14 97?

15 MR. RICE: It is number 97 on Figure 1.

16 VICE PRESIDENT HODGKINS: Okay. Thank you.

17 TRLIA PROGRAM MANAGER REINHARDT: What might be  
18 most helpful if I presented to the Board at the next  
19 meeting a map showing exactly where we've made  
20 explorations. We have obtained explorations along the  
21 selected path. The explorations that we obtained on the  
22 Naumes parcel, we're looking at some of the other  
23 alternative alignments. I think it's just better to give  
24 you a map showing you those exact locations.

25 SECRETARY DOHERTY: So you got permits from all of

1 the various landowners here, to go in and do Corps  
2 samplings; is that right?

3           TRLIA PROGRAM MANAGER REINHARDT: We got right of  
4 entries on all of the landowners who were willing.

5           MR. MORRISON: A majority of the landowners --  
6 some property owners were not willing to allow access.

7           SECRETARY DOHERTY: So of this right-of-way, how  
8 many landowners are involved?

9           MR. MORRISON: I will get into that a little bit  
10 more in detail, in the next discussion. But there's  
11 approximately 30 property owners covering 48 parcels on  
12 the overall project.

13           Bob Morrison, Three Rivers right-of-way manager.

14           VICE PRESIDENT HODGKINS: Okay. Other comments?

15           Seeing none, we're going to move on to the second  
16 item under 3B, which is the cash flow projection for  
17 existing and future right-of-way and project expenditures.

18           I'd like to just remind folks, this came in  
19 connection with, are the uncertainties associated with the  
20 final price that's going to be determined in court on some  
21 of existing condemnations accounted for in the cash  
22 projections. Are the projections to get funding necessary  
23 for this project?

24           So can I turn this over to you, Mr. Brunner?

25           TRLIA EXECUTIVE DIRECTOR BRUNNER: Yes, and thank

1     you.

2             I think you did a good recap as why we're here  
3     today to do the briefing.

4             What we're going to do is to -- I want to give a  
5     very short overview of project orientation for Board  
6     members but also for the audience, so you're aware of what  
7     we are doing.

8             We're then going to talk about the time line. I  
9     would do that on the project as to how it relates  
10    together. And then I'm going to ask Bob Morrison to come  
11    speak about the land acquisition. And to spend some time  
12    talking about the middle part there, about the land  
13    acquisition votes that we've already taken, and that we  
14    plan to be doing on our project.

15            And then when Bob is done, I will come back and  
16    recap how it fits into the cash flow for you.

17            (Thereupon an overhead presentation was  
18    presented as follows.)

19            TRLIA EXECUTIVE DIRECTOR BRUNNER: Quick recap for  
20    folks. This is the TRLIA project. It's 29 miles of  
21    levees. You will see this many times as well. But this  
22    area up here.

23            This area here is the Yuba river. This is the  
24    area that we were spending quite a bit of time on the last  
25    discussion on, where we're working on this part. And the

1 work, we believe, is completed, if I can use that term.

2 This is the Western Pacific Interceptor Canal that  
3 we worked on and is in for certification. This is -- from  
4 Highway 70 out to Simpson Lane is also on certification of  
5 the Corps, for the hundred-year level. Western Pacific  
6 Interceptor Canal is in the Corps for certification.

7 The Bear River setback, in here, is also in the  
8 Corps for certification.

9 Then from here to here is the Feather River  
10 project.

11 --o0o--

12 TRLIA EXECUTIVE DIRECTOR BRUNNER: I show this  
13 slide again for reference, because if it comes up later  
14 on, in Bob's discussion, about Segments 1, 2, and 3, and  
15 what we are doing for the orientation for folks, Segment 1  
16 is this portion of the Feather, from the Bear confluence  
17 up to Star Bend, and from Star Bend right around Shanghai  
18 Bend. But in that proximity is Segment 2. This is where  
19 the setback takes place. The setback is this alignment  
20 here. And you can see it on the real estate map, that's  
21 up here, on the front here. And this is the existing  
22 alignment of the levee.

23 From here to here is the Segment 3, up to the Yuba  
24 point.

25 --o0o--

1           TRLIA EXECUTIVE DIRECTOR BRUNNER: This is the  
2 project schedule for the efforts that we have. As I  
3 mentioned earlier, Phase 1, 2, and 3, this work is in for  
4 certification. And that's what this line represents here,  
5 is that we did turn that in. We have been working  
6 diligently with the Corps, and we believe that we're close  
7 to completing this work.

8           Segments 1 and 3 on the Feather is being worked  
9 through in the design. We hope to go out for construction  
10 bid proposals as soon as perhaps next month, and to award  
11 in the May/June time period and start construction of the  
12 project.

13           We'll be talking a little bit about that in my  
14 briefing, after Bob. And then also we get to the Item 4,  
15 talk about revised funding plans for our project, as to  
16 where funding is coming in and out of the project for the  
17 future state funding and how does that relate to our  
18 effort.

19           This right through here is -- on Segment 3 is a  
20 decision point that represents -- our original goal was to  
21 complete Segments 1 and 3 within this timeframe, which is  
22 the 2007 construction season.

23           As we work with our funding right now, we may not  
24 be able to do that in the funding -- and the construction  
25 will be extended to 2008, still achieving our 2008



1 completion goal that we have with the Rec Board. And that  
2 would be Board Segment 1 in this time period.

3 Segment 2 is the middle section when the setback  
4 takes place. That's the land -- the land is orange. Let  
5 me see across here. This purple is the land acquisition  
6 period, where we are in the process of approaching people  
7 now. And Bob's going to go through this in great detail  
8 with you. But we talked about acquiring the property in  
9 the setback area and also in the footprint. The  
10 construction of the project, we hope to start Segment 2,  
11 also this construction season, based upon the funding and  
12 the projections that we're going to share with you, for  
13 this data, as it comes to pass.

14 So we start the embankment, the foundation work in  
15 September of 2007. And we move throughout the  
16 construction season and complete the levee by 2008.

17 This line here, on the other side of this black  
18 line, in 2009, is where we had addressed the existing  
19 levee that we would be tearing down or taking out portions  
20 of the setback for work. But that would occur in the 2009  
21 time period.

22 This black line, that we have here, represents our  
23 commitment to the State Reclamation Board, that we would  
24 complete our project by the 2008 time period. That  
25 represents the completion of the construction facilities

1 that achieve the 200-year flood protection by that date.

2 And that's our goal, and that's what we are moving to, in  
3 working with the state funding, and the Yuba setback.

4 What I'm going to do here is turn to Bob Morrison,  
5 who's going to talk and has several slides dealing with  
6 land acquisition.

7 MR. MORRISON: Hi. My name is Bob Morrison. I'm  
8 the Three Rivers right-of-way manager. What I first  
9 wanted to do is cover -- there were seven key steps  
10 involved in the right-of-way acquisition for public  
11 projects. The first six are shown here. The engineers  
12 need to actually complete the engineering. Then a survey  
13 of the properties are completed with -- and a boundary is  
14 established. Plats and legals are then completed for the  
15 partial acquisition. At times, we will request a right of  
16 entry. Mr. Rice mentioned that. And they are doing that  
17 on a number of properties, to do geotechnical  
18 investigations and environmental investigations.

19 At that point, the appraisals are completed and  
20 then the first written offer is given to the property  
21 owner at not less than the appraised value.

22 If there are relocations, the relocation aspect of  
23 the -- whether it be an agricultural operation or business  
24 operation or residential operation would begin after that  
25 first written offer is given.

1 All of this is covered as part of a -- within the  
2 Government Code's 7267.

3 The next phase, the next slide --

4 --o0o--

5 MR. MORRISON: -- is the condemnation phase. And  
6 ideally, we would negotiate a settlement. There are  
7 instances where we've had to go into this, the  
8 condemnation phase, and this is covered under the Code of  
9 Civil Procedures 1245 and others.

10 And there are some various -- this phase has  
11 changed as of January 1st, 2007. So that's very  
12 important, as we put our schedule together, to recognize  
13 that change.

14 So the resolution of necessity is necessary. We  
15 file a complaint in eminent domain court. The key here  
16 is, once you file that complaint, you also have to deposit  
17 the funds in the State Treasury. You cannot file the  
18 complaint without money. The property owner is then  
19 served the complaint. Within 30 days, they can file an  
20 opposition to that motion. And then Three Rivers will  
21 also file their response.

22 A hearing is heard 90 days after the service. And  
23 then, potentially the Board of Possessions is given 30  
24 days after the hearing.

25 There are various types of acquisitions that we're

1 acquiring for this project. There are permanent  
2 easements. Generally, we are acquiring fee title. In  
3 addition, we are doing temporary construction easements  
4 and flowage easements over a number of the areas.

5 --o0o--

6 MR. MORRISON: I wanted to provide you a generic  
7 timeline for the operations. The first three are the  
8 engineering, the appraisals, and negotiations. I kind of  
9 collapsed a number of those, the first items, into this  
10 phase.

11 Generally, these can be completed in 90 days. And  
12 from there, we then go into the statutorily mandated  
13 timeline of 120 days, which is after they file the  
14 complaint and deposit the money.

15 So from this phase, right here, from the time we  
16 filed a complaint and deposit the money, to having  
17 possession of a property is 120 days. So we've built that  
18 into our schedules and are very much aware of that. We've  
19 followed -- and are working closely with our eminent  
20 domain attorneys to make sure that we are in line with all  
21 of the new code of Regulatory Codes.

22 --o0o--

23 MR. MORRISON: I wanted to get a little bit more  
24 specific into the projects. We talked about a number of  
25 phases. Phase 1, 2 are up on the Yuba. And Phase 3 was

1 done on the Bear. And there's a Phase 4 along the Yuba,  
2 that we've been working with. Also, the Olivehurst  
3 detention basin. Those activities are generally complete.

4 There are 60 parcels that were affected within  
5 that. There are still nine acquisitions that are pending.  
6 Six are in litigation. Six parcels are in litigation;  
7 three are still in negotiations. We're just finalizing  
8 the numbers and hope to close the deals relatively soon.  
9 Three Rivers has already deposited approximately  
10 \$8.8 million with the State Treasury, on those six  
11 litigations. And an additional 2 to 6 million dollars is  
12 already built into the cash flow, to close all nine deals  
13 between April and November. So again, we have built this  
14 into the cash flow.

15 --o0o--

16 MR. MORRISON: In Phase 4, Paul talked about the  
17 Segments 1 and 3. The Segment 1 is roughly three miles,  
18 and Segment 3 is roughly three miles. They are  
19 respectively south and north of the setback levee.

20 There are 25 parcels affected by that. We are  
21 acquiring mainly temporary rights. And a number of those  
22 rights are being acquired from SSJDD, Sacramento-San  
23 Joaquin Drainage District. And we're working with Jeff  
24 Fong in acquiring those temporary rights.

25 There are some permanent rights that are being

1 acquired within Segment 3 for a stability berm. And our  
2 goal is to have the acquisition complete by May of 2007,  
3 as Paul mentioned, the goal is to have construction on the  
4 ground.

5 And roughly, right now, we have a million dollars  
6 loaded in the cash flow for acquisitions within these  
7 Segments 1 and 3.

8 --o0o--

9 MR. MORRISON: On Segment 4, there are 48 parcels  
10 that may be affected by the project. A number of those  
11 that are included in that are owned by Sac-San Joaquin  
12 Drainage District. There are 30 property owners.

13 And the key here is that we're acquiring in  
14 phases. So our goal is -- I've handed out a map of the  
15 right-of-way activities. Make sure I'm doing this right.  
16 So there --

17 --o0o--

18 MR. MORRISON: It's difficult to see here, but  
19 there's a blue line that goes -- that is north of Ella,  
20 and it's better to see here. But north of Ella is the  
21 first stage of acquisition. There are four property  
22 owners there that we are already working with. We are in  
23 the process of appraising their properties, and those  
24 appraisals should be -- are going to be complete by the  
25 first of April, and then the offers will be made shortly

1     thereafter.

2             At the same time, we are also approaching the  
3     property owners with the idea, asking them to grant us a  
4     right of entry to construct while negotiations are  
5     continuing.

6             The Stage 2 is from Ella down to Anderson. And  
7     there are six properties owners that are available within  
8     this area. And the appraisals are beginning, the first  
9     part of April. It should be done within the April  
10    timeframe. Offers will be made to those property owners  
11    shortly thereafter, in the May timeframe.

12            And then Stage 3 is south of Anderson. And  
13    there's approximately ten property owners who are directly  
14    affected by the levee. There are additional stages, a  
15    Stage 4, where there are a number of property owners  
16    behind the setback levee, that their operations can  
17    continue through construction. Our goal is to coordinate  
18    our efforts with them. And if there's an agricultural  
19    operation, to allow them to continue that operation as  
20    long as they wish.

21            And then Stage 5 is -- there are various borrow  
22    pit sites that will be required. The overall goal of the  
23    project is to gain and use the dirt in this portion of the  
24    setback area to build the levee itself. I believe there's  
25    roughly 4 million cubic yards of dirt required. And so

1 our goal is to use the setback area to build the levee.

2 And then Ric can get into that a little bit  
3 further, if there are any questions.

4 SECRETARY DOHERTY: I have a question.

5 MR. MORRISON: Yes.

6 SECRETARY DOHERTY: And I may be simple, but I  
7 want to understand something. You are going through all  
8 of this before there is even a permit granted?

9 MR. MORRISON: There's been an environmental  
10 document completed.

11 SECRETARY DOHERTY: Have you done the  
12 environmental document for the federal government?

13 MR. MORRISON: For this phase of right-of-way  
14 acquisition, that is not necessary, per the  
15 right-of-way -- the state codes.

16 SECRETARY DOHERTY: Now, you are calling this a  
17 public project, which it may become in the end, but yet I  
18 keep hearing about the builders putting up all of this  
19 money for these projects.

20 Now, is that a public project or is it a private  
21 project?

22 TRLIA PROGRAM MANAGER REINHARDT: Three Rivers is  
23 the implementing agency. And as a public agency, it is a  
24 public project. And the reason that we're moving so  
25 quickly is because of our combined goal of completing this



1 project in 2008.

2 If we wait until we receive 408 approval or the  
3 permit, we won't complete construction in 2008. We may  
4 not even complete construction in 2009. So we have made  
5 an extremely aggressive program that, based on our  
6 discussion with the Reclamation Board, and through the  
7 Army Corps of Engineers, we're getting the nods that this  
8 is a project that benefits public safety in the region,  
9 that they would like to see go forward.

10 TRLIA SPECIAL COUNSEL SHAPIRO: What's also worth  
11 thinking about, as we think about the issue you've raised,  
12 about public versus private, not only is Three Rivers a  
13 public agency -- actually, to date, roughly 50 percent of  
14 the funding has come from public agencies, from impact  
15 fees raised by the counties unconnected with the  
16 particular funding developers, by about 60-plus million  
17 dollars from the State of California, grants from FEMA, in  
18 excess of \$5 million.

19 So that certainly did not -- we're not a  
20 wholly-owned subsidiary of the developers, as some people  
21 implied. And in fact, moving forward with the request  
22 that we made of DWR, for funding, once again, the  
23 developers represent less than 50 percent of the funding.

24 SECRETARY DOHERTY: Thank you.

25 TRLIA EXECUTIVE DIRECTOR BRUNNER: Actually, that

1 was a good segue into the next portion of this topic,  
2 which deals with the funding.

3 --o0o--

4 TRLIA EXECUTIVE DIRECTOR BRUNNER: This is a slide  
5 that we showed before, at the last meeting. And what I've  
6 done since that time -- I know the next topic right after  
7 that deals with state funding. And I'm sure Qualley will  
8 have some comments on that.

9 But the last time Rod Mayer was here, he made some  
10 comments about the adjustments when the funding agreement  
11 would be potentially signed, and then the earliest that we  
12 could have funding.

13 It is worthwhile to point out, in this slide, what  
14 Scott was just mentioning. Over here, this represents our  
15 funding, to date, on our program, where we had total  
16 revenues of 122 million. This is up to, through January.

17 So these Februaries are actual numbers too. But  
18 for sake of consistency for our program and what we showed  
19 last time, I just stayed consistent, to let people -- to  
20 have that point of reference. You can see here that this  
21 represents developer money of around \$69 million, that  
22 come in out of the 122, which is roughly about -- about  
23 half. Maybe a little bit more.

24 This is the DWR money that represents the Fish and  
25 Game money, up here, that so far we received from the

1 state the \$36 million in Prop 13 money, from Department of  
2 Water Resources and Fish and Game.

3 And then across here, as we do work, we get a  
4 reimbursement program. From there, we turn in our  
5 invoices and money comes back and this represents the  
6 revenue stream that goes across through here.

7 This particular number, 7.4 million, is a fiscal  
8 year appropriation of Fish and Game that will come to us  
9 in this time period.

10 But essentially, this is money that we have  
11 contracts existing, coming in. This line represents  
12 our -- hopefully our early funding line item from the  
13 state, that George will be talking about. This one right  
14 here is the additional money that we're asking to come in  
15 for Prop 1E, under the agreements that we have, to fund  
16 the setback project.

17 These represent other additional funding from our  
18 development community. That would be across through here.

19 The -- we have a small portion of revenue coming  
20 in from FEMA. And this number was adjusted since the last  
21 time I talked to you, at the 26th meeting. This one has  
22 increased a little bit. We expect a little bit more money  
23 to come back from FEMA on the grants that we have from the  
24 Olivehurst detention basin. The total revenues are here,  
25 for our proposal. Our total expenses are shown here, to

1     come forward.

2             Now, as I move to the next slide -- this one  
3     represents the information for trade, in just a little bit  
4     different format.

5                             --o0o--

6             TRLIA EXECUTIVE DIRECTOR BRUNNER:  On this one  
7     here, where we have total expenses are shown here.  And  
8     this line here matches the previous slide.  These are the  
9     total revenues that you see on the previous slide.

10            But in between represents our cash flow as far as  
11    expenditures that we perceive to have or anticipate  
12    between now and when the Prop 1E money will come in.

13            And the purpose of this is to -- demonstrate to  
14    the Rec Board is that we believe that we will be solvent;  
15    money is there to cover our bills and what we're doing  
16    during this inner period, where we are getting state  
17    funds.

18            Now, I did not list every expense that we have,  
19    like a very large cash flow sheet with all of the various  
20    expenses.  But I did mention, on the list here, certain  
21    ones, of interest to the Rec Board.

22            Where he did have -- Bob Morrison was talking  
23    about our existing acquisitions, whether or not we have  
24    cash in our budget to do that.  And Bob mentioned that was  
25    in our cash flow.

1           This line item here would represent, for the  
2   parcels that we have purchased, four segments -- for  
3   Phases 1, 2, 3, and Yuba Phase 4 -- that we still have to  
4   expense. We've planned for that. We put that in our cash  
5   flow in the future. And those monies are coming in to our  
6   program, through Prop 13 funds and reimbursements that we  
7   have, or development funds, that we're getting during this  
8   time period. So those are paid for, or will be paid for,  
9   from that.

10           The -- on the line, acquisition for Segment 2,  
11   that's what's represented here, by these numbers. There's  
12   more money after this time period, that will come in, that  
13   we anticipate being funded by Prop 1E.

14           This would be -- these numbers here, particularly  
15   these and 11.5 -- make those payments -- would be  
16   contingent upon getting the state funding at that time.

17           Quite a bit of this discussion. There is another  
18   topic that will come up later on the agenda, on Item 4,  
19   talk about revised TRLIA financing program. We'll be  
20   addressing these issues too, that I'm talking about here.

21           Here, this is the Phase 2, 3, and 4 Yuba County --  
22   or Yuba River projects. We still have a little bit of  
23   money to spend. The work's done. The invoices are coming  
24   in. We're paying off bills. And that's what that  
25   represents. And then after this time period, essentially,

1 we'll pay off the work that we've done and billed.

2           And then here we have the Segment 1 construction  
3 and 3 together. But this line right here represents the  
4 design for Segment 1 and 3, which is funded today, to  
5 complete Segments 1 and -- Segment 3 construction is  
6 contingent upon getting some money to come into the  
7 future, whether or not we accomplish this. But if this  
8 plan comes to life, I believe that there would be  
9 development funding coming in and also state funding.  
10 We'll have achieved the net balance down here, being able  
11 to pay all the bills.

12           We do have some Segment 2 design work that's  
13 underway. And that's shown here, for the cash flow also.

14           So if we receive a combination of our state funds  
15 that we already have, the development community funding  
16 coming in, along with the early funding from the state, we  
17 will achieve an overall cash balance, that will remain  
18 positive, all the way up to Prop 1E funding.

19           And I believe that's the purpose of what I was to  
20 demonstrate here today, for you.

21           There will be questions, I think, that will come  
22 up about overall funding and how we do things with this  
23 particular topic, for the state grant and that.

24           I would really ask for not to repeat all this each  
25 time, is that there's two more topics that we need to get

1 through, to actually get to the discussion on funding. I  
2 would recommend that we hear from the next topic on the  
3 state. And then we also have a revised TRLIA financial  
4 plan, that all speak to the same issues on it, and that we  
5 hear those two, and then have a discussion about funding  
6 and then hear what your questions will be.

7 TRLIA SPECIAL COUNSEL SHAPIRO: And I also think  
8 it's worth pointing out that the last meeting, questions  
9 were raised of whether our cash flow deliberately showed  
10 the payment of the loan. We told you it was included in  
11 the numbers. It was included in the numbers. But we  
12 broke it out on this slide, along with the other break  
13 outs, that Paul has provided, just to show that it is  
14 indeed covered.

15 The goal here was to break out each of the  
16 individual topics that people had questions about last  
17 time, to show that they are included. And everything else  
18 is in that last category of the Three Rivers costs.  
19 Clearly, if you have questions about the other Three  
20 Rivers costs that are in there, we can go through that in  
21 detail, if you would like.

22 VICE PRESIDENT HODGKINS: Paul, tell me again what  
23 you said about going through the remainder of the items on  
24 here. We have further discussion of the state funding as  
25 an item on the agenda. And I would like to report back on

1 maintenance responsibilities, which is clearly not part of  
2 this.

3           TRLIA EXECUTIVE DIRECTOR BRUNNER: The next two  
4 topics, funding potential for Prop 1E, and then the next  
5 topic after that is the revised TRLIA financial plan.

6           VICE PRESIDENT HODGKINS: Okay.

7           TRLIA EXECUTIVE DIRECTOR BRUNNER: Which is really  
8 an adjunct to this particular topic. It carries it one  
9 step further.

10          VICE PRESIDENT HODGKINS: Okay.

11          TRLIA SPECIAL COUNSEL SHAPIRO: Would you like us  
12 to do that one now, just follow this?

13          VICE PRESIDENT HODGKINS: In some ways, it seems  
14 like, to me, it would make sense. But yeah, I see Lady  
15 Bug shake her head.

16          And are there questions to ask at this point?

17          PRESIDENT CARTER: I had some.

18          VICE PRESIDENT HODGKINS: Are there comments from  
19 the public?

20          We're going to go ahead and let Ben ask his  
21 questions. And then are there comments out here -- I  
22 heard -- the item really was, in effect, have they  
23 covered, in this financing plan, which is sort of halfway,  
24 I guess, what might happen to them in terms of the  
25 condemnation? So you have a question as to -- wait, let



1 me let Ben do his first and then we'll get to you, if  
2 that's okay with you, Ms. Hofman. Okay.

3 Ben?

4 PRESIDENT CARTER: My first question relates to  
5 the schedule, your Gantt chart, that you presented kind of  
6 at the beginning of this, it showed degradation of the  
7 existing levee occurring at 2009. A lot of -- while the  
8 hydraulic analysis assumes that there's going to be  
9 reductions in water surface elevation as a result of  
10 setback levee, but that only occurs when the existing  
11 levee is degraded.

12 If you are postponing that to 2009, that means  
13 that the benefits of that to Yuba County, to this project,  
14 to Sutter County, and they're supportive of this, don't  
15 really occur until 2009 and 2010, which is -- it was a  
16 year later than I was expecting it. So that's a concern  
17 to me. I don't know if the schedule can be accelerated to  
18 provide those benefits for the 2008/2009 flood season,  
19 which begins November 2008.

20 But clearly, I just wanted to say that that's a  
21 concern for me. And you don't have to answer. But I  
22 would consider that or consider ways where you can perhaps  
23 accelerate the schedule.

24 My other questions are maybe for Mr. Morrison.  
25 You referred to -- under Segment 4 -- or Phase 4, Segments

1 1 and 3, permanent rights for a stability berm. What's  
2 the stability berm? Are we talking about a levee, or are  
3 we talking about another structure?

4 MR. MORRISON: Ric, maybe you can answer that  
5 question.

6 TRLIA PROGRAM MANAGER REINHARDT: A stability berm  
7 is a earthen structure that abuts the levee to prevent  
8 slumping when they have water flowing through the levee.  
9 Gives it more stability. It's roughly 10 feet wide. If  
10 you have driven down the Garden Highway in Sacramento in  
11 Natomas, that's a stability berm.

12 PRESIDENT CARTER: So in your slide, Phase 4, it's  
13 the one before that, I think. You talk about 25 parcels  
14 affecting mainly temporary rights, permanent rights for a  
15 stability berm only. So they are not permanent rights for  
16 the setback levee?

17 MR. MORRISON: It is a strengthen in place  
18 alternative. So it's in Segment 2 --

19 TRLIA PROGRAM MANAGER REINHARDT: By definition,  
20 Segment 3 is upstream of the setback levee, and Segment 1  
21 is downstream of the setback levee.

22 PRESIDENT CARTER: This is a waterside stability  
23 berm then?

24 TRLIA PROGRAM MANAGER REINHARDT: It's a land side  
25 stability berm.

1           PRESIDENT CARTER:  It's a land side.  Okay.

2           Very good.  I stand corrected there.

3           Then the other question I have then would be for  
4   Segment 2, where you are doing the setback levee, what is  
5   the basis for the appraisals in terms of the financial  
6   basis?

7           MR. MORRISON:  We're saying that the financial  
8   basis there is a market -- it's market driven.  So the  
9   appraiser is responsible for doing a market analysis and  
10   finding comparable properties that have sold.  So it's a  
11   comparison-based analysis.

12          PRESIDENT CARTER:  So would the appraiser be  
13   comparing a value of a piece of property that is, say, on  
14   Country Club and Messick Lake, which is -- which will  
15   become inside the -- inside the levee, to one that is  
16   Country Club, next to the Municipal Golf Course, on  
17   Country Club Avenue, near the golf course.

18          MR. MORRISON:  The analysis is done pre-project.  
19   So it assumes that the project is not built.  So it's what  
20   it's worth today, prior to the project.  And in that  
21   specific instance, that comparison would not be  
22   appropriate.  It would be for light land uses as it is in  
23   the general plan.

24          PRESIDENT CARTER:  However, if the levee was fixed  
25   in place, then these people would have the opportunity to

1 potentially develop their property; right? And so their  
2 land use may change.

3 MR. MORRISON: That is outside -- that's outside  
4 the realm of the appraisal itself. It is actually -- that  
5 is a land use decision that is handled by the County Board  
6 of Supervisors.

7 So it is, what is it zoned today with the  
8 knowledge -- and it discusses the highest and best use of  
9 that property. And it does a detailed analysis into, you  
10 know, the general plan and the likelihood of a general  
11 plan changing. But a lot of those things are outside the  
12 control of the appraiser.

13 PRESIDENT CARTER: Well, you are taking the  
14 control out of the landowner, his land use decision. You  
15 are taking his control of his land use decision out of his  
16 hands, if you move the levee. And you essentially  
17 bifurcate their property or put their property inside of  
18 the floodplain. You are eliminating their ability to make  
19 choices as far as their land use. There is some value  
20 with regard to that.

21 Also, these people who you are considering  
22 including inside the levee, they are providing value to  
23 Yuba County, Sutter County, the state of California. And  
24 this is from the aspect of public safety in terms of  
25 widening the flood plain.

1           Is that value taken into consideration?

2           MR. MORRISON:  It is the fair market value at that  
3   person's highest and best use.  And I can't go and give  
4   you a specific number on each one of these properties  
5   right now, because the appraisal has not been completed  
6   and that is a discussion between the property owner,  
7   and it's part of the negotiation.

8           PRESIDENT CARTER:  So does the fair market value  
9   or does it not include the value provided to both counties  
10  and the state for public safety?

11          MR. MORRISON:  No.

12          PRESIDENT CARTER:  Why not?

13          MR. MORRISON:  It is a fair market -- what is --

14          PRESIDENT CARTER:  That's not the question I  
15  asked.  Why not?

16          TRLIA PROGRAM MANAGER REINHARDT:  Is the  
17  controlling factor the state law or something else?

18          MR. MORRISON:  Controlling factor is state law.  
19  And there are state laws that govern the appraisal  
20  aspects.  I'm not an appraiser.  I'd be happy to have the  
21  chief appraiser for that project come and answer that  
22  question for you.

23          PRESIDENT CARTER:  I just want to go on the record  
24  saying that not that I want to increase the cost of this  
25  project, but these people need to be fairly compensated

1 for the value they are providing to this project, to the  
2 people of Yuba County, to the people of Sutter County, and  
3 to the people of state of California.

4 It is not -- and there is value there. That's why  
5 this project is being done. Clearly, there's value there,  
6 and it's not ag land value. It's probably more than the  
7 development value, because it's systemwide benefits. So I  
8 urge you to take that into consideration.

9 VICE PRESIDENT HODGKINS: Ms. Hofman?

10 MS. HOFMAN: I have a question for the Reclamation  
11 Board. We have a project. We are making a ring levee for  
12 development in the worst area possible of the Yuba County.  
13 We're taking the people above that. When they had in mind  
14 dodging the four-way, doing everything they are doing,  
15 without doing a full environmental impact report on the  
16 entire system. They knew what they were doing. And now  
17 the land owners are going to pay the piper.

18 And what I'm saying is, if I understand  
19 condemnation correctly, you have the right for the benefit  
20 of the future and this project was envisioned for  
21 hundred-year protection, many years ago. And I wonder, if  
22 case law allows you to ignore it.

23 The other thing I'm asking, since you haven't done  
24 the soil analysis, what if you go out there and you  
25 condemn somebody's property. You have a real problem.

1     What I'm saying is, why don't we at least do something  
2     completely. We've had TRLIA admit they need a 408.

3             Why does the Reclamation Board allow them to  
4     ignore the federal guidelines for environmental  
5     protection? We don't know anything about hydrology.  
6     We're landowners. We ask the question. They are going to  
7     start building in four months. And they can't even tell  
8     me how much water is going to come in from the Yuba River.

9             How can -- what are you going to do? Is the dirt  
10    no good in the old levee? Is it scrap? Where are you  
11    going to put it? When I ask TRLIA that, I get no answer.  
12    They are going to take good land, dig it up to build a  
13    levee so they avoid a 408, so they have the federal  
14    government in their clutches.

15            What I'm saying is, did TRLIA tell the Reclamation  
16    Board that the old levee has no valuable dirt in it? Or  
17    are they going to sell that dirt to developers?

18            I'm just a citizen. I want answers. I'm begging  
19    the Reclamation Board to take a firm stand and ask that  
20    this project be complete, so we get some hard answers.

21            Your chairman is correct. This whole area, they  
22    put it in there. They took the best land in Yuba County,  
23    made it development land, by ignoring an environmental  
24    process, that they skipped, in order to build the ring  
25    levee for the developers. I'm not against development.

1 But I'm against finessing a project to their benefit, at  
2 the expense of the public.

3 Now. If TRLIA can prove that there's no dirt of  
4 value in that levee, that's one thing. But why are we  
5 digging up more land when we've got a levee that can --  
6 that should be able to be used. Why aren't we having the  
7 408? Why are we doing a project when we don't know if we  
8 can have a permit? What happens if we have a flood with  
9 that dirt that's going to be inside of the river, going  
10 down to the rest of the river system?

11 It's supposed to be, they said, a 25- to 35-year  
12 levee. We're building a 200-year levee on the other side.

13 Ladies and gentlemen, we need a complete project.  
14 I hear the land acquisition person telling us that it's  
15 what it is today. If you take the records of Yuba County,  
16 they are taking some of the best land that's in some of  
17 the worst areas, right now, today, and they are putting  
18 that same land, without a levee, in, for development, of  
19 thousands of people. And we're going to tell the farmers  
20 out there and the people that own the land, you are not  
21 entitled to the same benefit?

22 What I want to know is, why we don't have the 408  
23 environmental work done? And why we're skating around it  
24 and going out and taking the levee out after we built the  
25 other one.



1           If it isn't -- what I'm saying is, you ask TRLIA  
2   for an answer. You don't get an answer. So I'm coming to  
3   the Reclamation Board, and I'm asking for the answer.

4           We had the money and everything for a setback  
5   levee. We had a retention thing. And then we go ask for  
6   the 408. And then it's an emergency thing, and we don't  
7   do the environmental work. It's going to be the same  
8   thing with this.

9           Thank you.

10          TRLIA SPECIAL COUNSEL SHAPIRO: With permission, I  
11   think it's important to clarify for members of the public  
12   that may not be familiar with 408, it's not an  
13   environmental statute. Section 408 of the Rivers and  
14   Harbors Act, it's actually a section of code that you says  
15   that you can't alter a levee without permission of the  
16   federal government. And in this case, we are going to be  
17   altering that existing levee, and that's what the 408 rule  
18   is.

19          So I just think it's important for the record to  
20   say, we're not skirting any environmental laws. We do  
21   have a phased approach on 408. This is, in essence, the  
22   same phased approach that was used on the Bear River  
23   levee. That was acceptable to the State and the Army  
24   Corps of Engineers.

25          And I will leave it to Paul or Ric to comment on

1 whether the existing levee has adequate materials for  
2 construction of the setback.

3           TRLIA PROGRAM MANAGER REINHARDT: The Board will  
4 recall, on the Bear River, we proposed building one-third  
5 of the foundation of the levee, before we began  
6 degradation of the existing Bear River levee. That was a  
7 long process. We reached an agreement on how to do that  
8 and what milestones can be met before we can achieve that.  
9 We required a very aggressive construction program and  
10 ultimately we met that objective.

11           The levee was 1.8 miles long. This levee is six  
12 miles long. In addition, this is the Feather River levee.  
13 One of the big problems with it, it's a sand pot; it is a  
14 very sandy levee. That material does not meet  
15 specifications, unlike the Bear River levee where much of  
16 the levee met current soil specification requirements.

17           And so since the levee is 6 miles long, we're very  
18 concerned about our ability to construct it in one year.  
19 We want to make sure that before we begin degradation, and  
20 because that existing levee is not -- probably 70 to  
21 80 percent of it meets soil specification requirements,  
22 we're not pursuing simultaneous degradation as we did with  
23 the Bear.

24           VICE PRESIDENT HODGKINS: Okay. I'm going to stay  
25 off my soap box for now.

1           You know, I can't. Unfortunately, we have a  
2   system in the Central Valley that, after we spend  
3   \$35 million trying to develop a systemwide program -- and  
4   fundamentally we're not able to do that, and mostly  
5   because we simply couldn't find a way to meet the needs of  
6   everybody who had needs that they wanted met, in modifying  
7   the system. So we did try to do it on a systemwide  
8   approach. And unfortunately, what's happening in the  
9   meantime is, houses have already been built, houses are  
10  being built, and we have come to better understand how bad  
11  these levees are.

12           In my view, while I would not argue that this is  
13  not, in effect -- not this project, but the approach to  
14  this system is the segmented approach. We are fixing  
15  places where the flood front is greatest. That's the case  
16  here, because I believe, and you correct me if I'm wrong,  
17  but the Feather River levee broke in the area of the  
18  setback, would that not get the people in Linda and  
19  Olivehurst wet as well? Or is that incorrect?

20           TRLIA PROGRAM MANAGER REINHARDT: It's incorrect.  
21  It would result in approximately the same floodplain --  
22  actually, exactly the same floodplain that occurred in  
23  1997, which flooded the southern portions of Olivehurst,  
24  but it didn't flood Linda.

25           MR. ARCHER: Backed up to the airport.

1           VICE PRESIDENT HODGKINS: The improvement here is  
2 primarily focused on making sure that there is adequate  
3 protection for the Plumas Lakes.

4           TRLIA PROGRAM MANAGER REINHARDT: And the southern  
5 portion of Olivehurst. The way that it benefits the  
6 residents of Yuba -- of Linda is through the stage  
7 reductions on the Yuba River levee.

8           VICE PRESIDENT HODGKINS: I understand. I  
9 understand.

10           So I guess there was a real attempt made to do  
11 this from a systemwide approach. And fundamentally, I  
12 don't know, politics, different values, made it impossible  
13 to do. And we're now, in my opinion, reduced to having to  
14 address, in effect, the worst cases first and those  
15 communities who will get out will figure out a way to get  
16 their property done and maybe can jump on others. And  
17 it's not necessarily the best way to do business and  
18 that's why the legislature is arguing a lot about it.

19           But fundamentally, to try and provide protection  
20 for people who are already living in harm's way, it's  
21 going to impact at this point.

22           Keep the meeting moving then.

23           Yeah?

24           SUPERVISING ENGINEER FUA: This is actually in  
25 relation to the section 408. Wouldn't you need a federal

1 NEPA compliance if you degrade a federal levee? River  
2 Islands, Corps of Engineers require an EIS.

3 TRLIA PROGRAM MANAGER REINHARDT: For the Bear  
4 River levee, the NEPA compliance was completed under our  
5 404 permit. And we talked with our Corps staff, and the  
6 initial reaction was that they would do the same with  
7 this, that the NEPA compliance of the 408 -- whatever  
8 compliance is required for the 404.

9 VICE PRESIDENT HODGKINS: Okay. I would like to  
10 go to the TRLIA financing plan and then come back to talk  
11 about where DWR money is. That's a change a little bit in  
12 the agenda, but we will take your comments. It just fits  
13 better with the way this was meant. Okay?

14 And we are now moving down to Item 3B4, which is  
15 Revised TRLIA Financing Plan. All right?

16 (Thereupon an overhead presentation was  
17 presented as follows.)

18 TRLIA SPECIAL COUNSEL SHAPIRO: Thank you, Butch.  
19 This is a very brief PowerPoint presentation. It's more  
20 oriented towards summarizing concepts, contained in the  
21 cash flow that Paul showed in the last PowerPoint. It's  
22 only four slides other than the introductory slide.

23 --o0o--

24 TRLIA SPECIAL COUNSEL SHAPIRO: So in summary, the  
25 Finance Plan to date is the first bullet on this slide.

1 Phases 1, 2, 3, and Yuba Phase 4, and the Feather Segments  
2 1 and 3 design has been funded from a combination of the  
3 FEMA grant, which we received. And now we're waiting to  
4 determine the exact dollar amount of the receipt of money  
5 and we're estimating, I think, it's \$6.5 million  
6 currently.

7 State Proposition 13 funding, which we received  
8 about \$40 million thus far, with contracts in excess of  
9 50 million, will probably hit 70 million approximately, or  
10 60 million, somewhere that range, when we get the last of  
11 the appropriations; and development funding, which is  
12 currently about \$68 million.

13 Phase 4 Feather, Segment 1 and 3 construction and  
14 Segment 2 construction, we believe, should be funded in  
15 parallel to what has happened to date. This is the  
16 combination of state funding, Proposition 1E and 84 and  
17 the local share of significant portions of which will come  
18 from the development community.

19 We've -- Three Rivers is not in the local  
20 government business. We're not in the land use business.  
21 But we've heard the message from Yuba County, which is a  
22 member of our joint powers authority. Yuba County  
23 believes that this project should be like others in the  
24 state, and that is, they should have a local share and  
25 they should have a state share.

1           And that's one of the advantages of state funding  
2   in this last phase, is to basically put residents of Yuba  
3   County on par with residents of other counties that  
4   receive the state funding.

5           It's also important to remember that development  
6   funding really just means higher home prices and higher  
7   fees in the long run, made by residents who buy those  
8   houses. And we felt that this community should be on par  
9   with communities in Natomas and Lathrop and West  
10   Sacramento and Stockton, where state funding helps offset  
11   that allocation.

12           Finally, it's important to note that the setback  
13   levee provides tremendous regional benefits, benefits to  
14   people outside of the area, the benefits to Sutter County,  
15   which isn't paying anything, and Yuba city, which isn't  
16   paying anything, and Marysville which isn't paying  
17   anything. And so traditionally, the state has  
18   participated in that kind of funding.

19                               --o0o--

20           TRLIA SPECIAL COUNSEL SHAPIRO: The key elements  
21   of our request DWR, which are pending, is 70 percent state  
22   share and 30 percent local share. The costs associated  
23   with the -- what would have been the strengthen in place  
24   work. Now we know, the actual costs for strengthen in  
25   place for Segments 1 and 3. We're doing that work.

1 Segment 2 is the estimate. It's what the state would  
2 traditionally participate in, at the traditional state 70,  
3 local 30 percent cost share.

4 We've also requested that DWR allocate a hundred  
5 percent state share for the setback levee, due to those  
6 regional benefits. So to be clear, that's a hundred  
7 percent of the incremental costs. It's not a hundred  
8 percent of the cost of that levee. It's just the  
9 incremental cost beyond what it would have cost had we  
10 done the strengthen in place.

11 We have provided estimates of those dollars to  
12 DWR, although our plan is based on percentages. And  
13 that's traditionally how some of these contracts have been  
14 handled. We go back, we can do changes, we can get the  
15 numbers updated. There would be a cap. We understand  
16 that a cap is necessary, from the state's perspective, to  
17 make sure that all 1E funding is eaten up on projects like  
18 this.

19 And our request also is to use timely copayment of  
20 invoices. Proposition 13 had a clumsy reimbursement  
21 mechanism that required us to expend all funds before we  
22 could be reimbursed. That's a tremendous cash flow burden  
23 on us.

24 We are aware of other projects. Since AB 140 and  
25 142, where DWR has basically taken a payment program. An



1 example is the Grand Andrews repairs that are going on,  
2 down in the Delta, and we have requested sort of the same  
3 sort of payment method that's here.

4 --o0o--

5 TRLIA SPECIAL COUNSEL SHAPIRO: Key actions that  
6 we understand that are required before Proposition 1E  
7 funds are committed to Three Rivers. Clearly, DWR needs  
8 to select our project. And the last subcommittee meeting,  
9 Rod Mayer reported that the -- that the bond expenditure  
10 plan was out, and DWR was working on some application  
11 packets, and we are awaiting that. And George may know  
12 more about when they are coming, but we'll look toward to  
13 them coming when they come. We will promptly apply, with  
14 all of our materials together, all ready.

15 Once we apply and DWR selects the project, we have  
16 great certainty that the money will come, once the  
17 legislature appropriates it.

18 And once the legislature appropriates it, there  
19 will be an agreement that is executed. We will look for  
20 either a single agreement for all of the funds or a  
21 two-phase agreement. You will notice in cash flows, we  
22 show \$30 million in July, August, and, I believe,  
23 September. There could be an initial contract for that or  
24 a later phase contract or there could be a contract for the  
25 entire request.

1           And the agreement, that agreement in place,  
2   triggers the availability of additional local share money  
3   to provide the local share for the 70/30 split.

4                               --o0o--

5           TRLIA SPECIAL COUNSEL SHAPIRO: I think it's  
6   important to be real up front with the consequences of a  
7   delay in the state agreement. And we've talked about  
8   this. The last time, at the subcommittee meeting, we had  
9   the disclosure that due to delays, we will not be seeing  
10  money in May. We would see money earliest in July. We  
11  came back with a cash flow today that showed the  
12  consequences of that.

13           Along the same lines, these with the consequences  
14  of the delay in the state agreement, beyond the new  
15  timeframes we're talking about. Delaying the state  
16  agreement could delay completion of the Feather River  
17  improvements until 2009. Our schedule still gets it done  
18  in 2008, but assumes that we have agreements in place, to  
19  start getting money, in October of this year.

20           Another consequence could be that work on Segment  
21  2 might stop after June of '07, until the state funding  
22  arised -- arose later. So that's another potential  
23  consequence.

24           It also could force a decision for Three Rivers,  
25  of whether it would be to prioritize funding of Segment 2

1 land acquisition or Segment 3 levee improvements. It's a  
2 decision we hope not to have to make. I know that,  
3 personally, my selection would be to keep funding land  
4 acquisition, because the weakest link is Segment 2. And I  
5 want to make sure that doesn't get delayed. But that is a  
6 decision Three Rivers could be faced with, if there's a  
7 delay to the state agreement.

8           So these are the worst case scenarios, if you  
9 will. We've thought about them. We believe with the  
10 information we are hearing from DWR, that these won't come  
11 to pass, but we're really not hiding anything. We want to  
12 put right up on the screen what the potential consequences  
13 are.

14           That's the summary of the latest, on the financing  
15 plan. That's really more overview of the numbers than you  
16 previously saw from Paul.

17           VICE PRESIDENT HODGKINS: I have some questions.

18           When the Reclamation Board amended the permit to  
19 eliminate the building permits, at that time, we had a  
20 commitment from TRLIA to raise how much money?

21           TRLIA SPECIAL COUNSEL SHAPIRO: We had the  
22 commitment to raise -- at that point it was maximum of  
23 140 -- \$135 million.

24           VICE PRESIDENT HODGKINS: Okay.

25           Now --

1           TRLIA SPECIAL COUNSEL SHAPIRO: It was technically  
2 a \$90 million commitment with a \$45 million contingency.

3           VICE PRESIDENT HODGKINS: Okay. All right. Your  
4 request to the state for funding would reduce  
5 significantly the funds provided by TRLIA for this  
6 project. And I'm not here to say whether that's good or  
7 bad. But I want to know is, suppose the state doesn't  
8 give you as much money as you have shown that you would  
9 like to get.

10           Where are we?

11           TRLIA SPECIAL COUNSEL SHAPIRO: The program that  
12 we came before the Reclamation Board with, back in April  
13 or May in last year, as you will recall, was the  
14 strengthen in place program. And all of our commitments  
15 for local funding were tied to that program. Only one of  
16 the more expensive programs, the setback levee, required  
17 us, as we shared last time at the subcommittee meeting to  
18 come back to the table with more funding sources and  
19 identify a local source.

20           So your question is, if the state doesn't come up  
21 with a adequate funding to get the setback levee done, do  
22 we have adequate funding to get it done ourselves?

23           And the answer is maybe. And I want to be -- I  
24 don't want to hide the ball on that. We would have to sit  
25 down, as Three Rivers, and make some decisions. Do we

1 continue to pursue the setback levee and additional local  
2 funding sources to do it? Do we make a decision to go  
3 back to the strengthen in place, a lower cost solution and  
4 identify the necessary local cost shares to do that?  
5 There would be decisions that would have to be made.

6 One of the advantages of the program we're on, is  
7 we're continuing to pursue Segment 1 and 3 strengthen in  
8 place. We're continuing to strengthen those. They need  
9 to be strengthened no matter what.

10 Before we do any significant construction on  
11 Segment 2, you will have from DWR an award or a failure  
12 award on our request. And that's when, if you will, we  
13 have to make our decisions.

14 We continue to meet all of our commitments to the  
15 Reclamation Board in our agreement. We're moving ahead  
16 with the 2008 completion date. Developers continue to  
17 provide insurance through 2010. Not a single home is  
18 being built without that home paying a dollar amount right  
19 now, consistent with that agreement.

20 So we're continuing to work it. And so if that  
21 contingency comes up, Butch, we'll be back at the table,  
22 learning how to deal with it.

23 TRLIA EXECUTIVE DIRECTOR BRUNNER: A couple of  
24 comments I would like to make, all the discussions with  
25 the state indicate that the project will move forward.

1 The question would be the timing and the amount that we  
2 have. And those will get worked through.

3 The numbers could be different when we finally  
4 negotiate. At that time, Scott was saying, we will then  
5 work through that with you, in that discussion, as to  
6 where we are, when we go through those discussions.

7 I know, personally, that as we've looked at that  
8 TRLIA, the county, and the members here in the community,  
9 we are looking at other alternatives -- to plan B options,  
10 if those cases came. I'm not prepared to go through those  
11 with you, here, but we are looking at other options at how  
12 to proceed. We take them very seriously, that we do  
13 proceed with the goals.

14 VICE PRESIDENT HODGKINS: Given the situation,  
15 again, in -- there's an agreement where the county and, I  
16 guess, the landowners agree that they stop building, in  
17 the event that a project can't move forward.

18 Just for my information, I would like to know,  
19 from your perspective, you have a cash flow laid out here  
20 that, you know, it's not the kind of cash flow one would  
21 like to have on a project because you would like to have  
22 more money. And because, you know, things are going to  
23 come up. It appears to me, at least the work at this  
24 point in time, up until you need the money from DWR, the  
25 first infusion of money, at -- let's say that doesn't

1   happen this year.  Okay?  So it's on the table of what  
2   happens next year.

3               Do you think that would -- if the Board said, and  
4   we think that constitutes default?  And I guess that's the  
5   right word.  At that point would that constitute default?

6               TRLIA SPECIAL COUNSEL SHAPIRO:  Well, default is  
7   defined in the agreement.  Actually, it's defined in the  
8   agreement because you made us define it in the agreement.  
9   You added in a provision that said, "default includes" --  
10  when you get to the point that you know you don't have  
11  enough money to get the program done.

12              So I'm not going to interpret your -- the  
13  agreement for you.  Nancy is here, and she'll do that if  
14  and when the day comes.  But I think you have protected  
15  your interests, those interests being protecting the  
16  population, pretty well.

17              In addition to your ability to call the default,  
18  Yuba County retained the ability to stop issuing building  
19  permits under any criteria that's developed, consistent  
20  with vested property rights and state law and all those  
21  kinds of things.

22              So Yuba County has that ability as well.  I'm not  
23  going to guess for you what my board would do.  You are  
24  the executive director long enough to know that that would  
25  cause you trouble.

1           VICE PRESIDENT HODGKINS: That will get you fired  
2 quickly.

3           TRLIA SPECIAL COUNSEL SHAPIRO: That's right.

4           TRLIA EXECUTIVE DIRECTOR BRUNNER: And I won't put  
5 YOU on the spot other than to say, if any Board members  
6 want to comment on this, they are welcome to. But I think  
7 that pretty much answered your question.

8           VICE PRESIDENT HODGKINS: Yeah. I'm exploring in,  
9 this, because this is really about why we're here.

10           And you know, the Board's concern is, the Board  
11 stepped out and wanted to look at, in effect, in lifting  
12 the building permit requirements because that clearly was  
13 the way to get money and move forward with the project.

14           And now the Board, I think, is in a position  
15 where, not now, not yet, but at some point, we might have  
16 to look at the basic question of, you know, can the Board  
17 still support allowing issuance of building permits when  
18 there are a few uncertainties here, about whether there's  
19 funding, and maybe we can't deal with those until we get  
20 there. But I get worried a little bit about the  
21 possibility for this.

22           Ric's left, but could the Feather River be  
23 certified in place?

24           If you didn't do the work on the levee, could it  
25 be certified?



1           TRLIA EXECUTIVE DIRECTOR BRUNNER: Well, Ric would  
2 be the best to respond. But if you look at the rationale  
3 as a viable alternative in the CEQA analysis, then we are  
4 proposing to go forward with it. If you wanted to put  
5 aside all the regional benefits and the benefits of doing  
6 the project, and go and use levee maintenance sand, or  
7 pretty much sand, our goal, because of cash restrictions  
8 at the time, was to try to do that and move forward. So  
9 we accomplish our task and complete the project.

10           We, the vote that came with Prop 1E that came in  
11 November, took the opportunity, presented this case, to  
12 your Board. The Board adopted that. For regional  
13 benefits that we have, it would be much better to build a  
14 new levee and move forward and not try to rehab an old  
15 levee that was bad.

16           I think on face value, Butch, yes, we had gotten  
17 certified and move to do that. I think that there's many  
18 levees across the state that were certified before, under  
19 that status. We would slurry wall everything. Hope that  
20 we got the sand later down there, captured; inner seepage  
21 problems would continue, and we just kind of reinvent the  
22 wheel. Potentially, we go. And again, it's 30 days, it  
23 stops water. But have you ever really addressed the  
24 issue? And the new levee allows us to go through that.

25           VICE PRESIDENT HODGKINS: I agree. And I

1 appreciate that.

2 I want to go ahead. Are there other questions  
3 from Board members or staff?

4 TRLIA SPECIAL COUNSEL SHAPIRO: Butch, can I just  
5 address one point you made as well?

6 VICE PRESIDENT HODGKINS: Sure.

7 TRLIA SPECIAL COUNSEL SHAPIRO: I just want to the  
8 speak to the issue of lifting permits. There's a lot of  
9 people here who have come to all of our meetings. So I  
10 just think it's important that we put a record on it  
11 [sic].

12 The Reclamation Board imposed a limitation of 800  
13 building permits. Let me back up. Imposed -- Reclamation  
14 Board and Three Rivers agreed to a limitation, with the  
15 cooperation of the developers and the County, of a  
16 limitation for 2005 of 800 building permits and 700 in  
17 2006. And that was to get us through Phases 1 and 3.

18 Interestingly, despite lifting building permit  
19 limitation, we issued 800 in 2005 and less than 700 in  
20 2006. So while, yes, you agree to lift it, less houses  
21 were built that could have been built before the  
22 limitations lifted; okay?

23 Even to date, where we have -- we are now three  
24 months into 2007, under Phase 4, we have only issued  
25 about -- Yuba County has only issued something like ten

1 over the 700 for last year.

2 So while building permit limitation was  
3 technically lifted, we didn't get the original limitation.  
4 That was only for Phases 1, 2 and 3. Now we're in Phase  
5 4. And every house is still paying a fee towards the  
6 levees. I just think it's an important clarification.

7 VICE PRESIDENT HODGKINS: I appreciate that. I'm  
8 thinking what I've got to do in the future. That's all.

9 Other comments?

10 Sure.

11 MR. NIESCHULZ: Dale Nieschulz, Nieschulz Ranch.

12 A question on your incremental value. You said  
13 that you're charging the state a hundred percent based on  
14 incremental value that is going to be gained by Yuba City  
15 and Marysville and other areas.

16 Could you explain that again?

17 TRLIA SPECIAL COUNSEL SHAPIRO: It's actually  
18 increment cost, not incremental value. I'm going to make  
19 up numbers, just to make the math easier, because I'm a  
20 lawyer, not an engineer.

21 The cost estimate, from the engineers, to  
22 strengthen the whole levee was a hundred million. The cost  
23 estimate to strengthen Segments 1 and 3 and the setback in  
24 Segment 2 was 200 million. Therefore, the incremental  
25 cost was 100 million, and that's what we requested of the

1 state.

2 So there's no incremental benefit or incremental  
3 value. It's just the hard cost of doing the work.

4 COMMISSIONER DALE: What precedent is this set on?  
5 Is that a state precedent this is set on?

6 TRLIA SPECIAL COUNSEL SHAPIRO: Well, it actually  
7 is based on existing precedent. If you look at the work  
8 that was done on the Bear River, under Proposition 13,  
9 Fish and Game had various funds that they provided, and  
10 DWR had various funds that they provided. And the funds  
11 of DWR and Fish and Game, provided for the basic work, was  
12 done at a 70/30 cost split, just like what we are  
13 proposing for the basic work here.

14 And then Fish and Game provided a hundred percent  
15 for enhancement, for environmental enhancement and  
16 restorations, above that baseline. And here, we have  
17 said, that setback levee provides environmental  
18 enhancement and provides flood protection enhancement for  
19 others, outside of us. And so it's based on that same  
20 analysis, that was approved by the voters in Proposition  
21 13.

22 MR. NIESCHULZ: Okay. What I understand, then, is  
23 that the State makes up for that difference, that others  
24 are to benefit from; is that correct?

25 TRLIA SPECIAL COUNSEL SHAPIRO: If that's what the

1 state did in Proposition 13 on the Bear River, we propose  
2 to do so, here, on the Feather.

3 MR. NIESCHULZ: So I guess where I'm going with  
4 this, then, is that if we're getting appraised values  
5 based on land that is being taken away from us, and to be  
6 placed outside of the area and try to find something that  
7 is equivalent to it, you're getting essentially a high  
8 amount for equivalent value of ground.

9 Are benefits paid back to you? You are getting a  
10 hundred percent by the state. It seems to me, the  
11 landowners are getting shorted on this by not also getting  
12 an increase of value that they are providing. Based on  
13 you they are getting a hundred percent from the  
14 government, it should be passed on to the landowners that  
15 are being displaced.

16 Does that not seem reasonable to you?

17 TRLIA SPECIAL COUNSEL SHAPIRO: The hundred  
18 percent that we get from the state is based on the values  
19 under state law for appraisal of property. So the way you  
20 said it makes it sound like we are somehow pocketing and  
21 not passing it all on. We're operating under state law.  
22 You know, we appraise under state law.

23 I am very sensitive to the point that you raise  
24 here and that President Carter raised about the true value  
25 of land. I am sensitive to it.

1           But we as a local agency are bound to operate by  
2   state law, and the Reclamation Board certainly has a voice  
3   to speak to the Legislature on this issue, and individuals  
4   as well. There has been some eminent domain reform that  
5   has occurred and more may occur.

6           At the moment, we are bound by state law, and I,  
7   as counsel for Three Rivers, am not the one to endorse  
8   policy decisions one way or the other. It is just state  
9   law.

10          MR. NIESCHULZ: Okay. It's a 70/30 split.  
11   Otherwise, on this portion of the incremental value  
12   increase, it's a hundred percent.

13          So you see where I'm coming from, basically.

14          TRLIA SPECIAL COUNSEL SHAPIRO: I do understand  
15   your point.

16          MR. NIESCHULZ: Okay. And that's where I am  
17   disagreeing with the appraisal values. When you come back  
18   and you say we'll not be pretending -- not giving an  
19   incremental value more, and you are giving the equivalent  
20   to the ground, outside. That's where I'm coming from.

21          TRLIA EXECUTIVE DIRECTOR BRUNNER: Just one point  
22   of clarification, is and they said yes to the 70/30 split.  
23   We proposed the 70/30 split. That's what we've had before  
24   on our work with the state. And there are different  
25   splits that could occur, under Prop 1E. So it could be

1 some other proportion.

2 MR. NIESCHULZ: Okay. Very good.

3 VICE PRESIDENT HODGKINS: Gentlemen? Other  
4 comments?

5 MR. FOSTER: My name is Greg Foster. And I would  
6 like to address some of the same issues that Mr. Nieschulz  
7 just went over, and some of the -- some that President  
8 Carter mentioned earlier, if this is the appropriate time.

9 I'm one of the landowners affected. I live from  
10 Star Bend -- my ranch actually runs from Star Bend up to  
11 Country Club there.

12 And I wanted to address this assessment or this  
13 estimate of the land value. All of these other issues  
14 that come in, other than comparable sales in the area, to  
15 me, they are just -- there's a lot of other issues to look  
16 at, here.

17 First of all, on my part, from a selfish  
18 viewpoint, I'm not interested in selling my land. If this  
19 is against my will, I don't -- I'm not interested in  
20 selling it. And yet you folks are going to take it one  
21 way or the other. We'll have more than 260 acres, which  
22 is two-thirds of our ranch put into the river bottoms  
23 here. And what that does is it takes an economic unit,  
24 that we built up over the last 30 years, and virtually  
25 makes an untenable situation from a farming viewpoint.

1           It -- there are economies -- there are levels of  
2   economy here -- scales of economy that you can't justify  
3   the equipment. You couldn't justify a walnut huller and  
4   dryer if you don't have any walnuts to hull and dry. You  
5   can't justify an \$80,000 shaker if you don't have enough  
6   acreage to use it on.

7           So it destroys an economic package, which I'm not  
8   sure you folks could consider in your flat orchard land  
9   appraisal.

10          I mean, I am a big fan of flood protection. I was  
11   flooded in '86 and again in '97. I had 16 feet of water  
12   in my house. And I'm a big fan of flood protection. But  
13   I don't understand why we're -- why we spent \$20 million  
14   on the existing levee already, and now we're coming up  
15   with plan B, I mean, since '97, with the slurry wall and  
16   all other improvements.

17          In addition to the economics of it, there are some  
18   aesthetics involved. I mean, we've been out there -- we  
19   live on the ranch. We're going to have a levee 50 yards  
20   from the back of our house, which is just, despite what  
21   people say, is a freeway. It's an access for all of the  
22   riffraff in the world that wants to drive down the levee,  
23   throw out their drug paraphernalia, run over an irrigation  
24   pipe, tear up the orchard in the wintertime, dump their  
25   used refrigerators, washers, and dryers, etc., out on our



1 property, along with theft issues.

2 In addition, when the property a half mile to the  
3 east of us there is selling for huge amounts of money, and  
4 the general plan, coming up for amendment and will be  
5 done, I would suspect, in the next two years -- and I  
6 would suspect that there are going to be several changes  
7 in it, particularly addressing the area to the west of  
8 Feather River Boulevard, that are not included in the  
9 specific plan right now.

10 This project is, again, on a selfish level. This  
11 project is precluding us and these other landowners, that  
12 are present here, from ever realizing the full potential  
13 of that ground. And the full potential of it is not what  
14 prunes and walnut orchards is worth today. I disagree  
15 with you on that.

16 For instance, I do know of acreage just a half a  
17 mile to the east that has been sold for well above \$50,000  
18 an acre. So it seems rather ludicrous to offer us a ag  
19 land price for that property.

20 So that's pretty much what I have to say. I  
21 just -- I know you folks. This may not be the appropriate  
22 time or place or -- but I know this, that you folks have  
23 something to say about that in your offers and so does the  
24 board of supervisors.

25 Thank you.

1           TRLIA SPECIAL COUNSEL SHAPIRO: I'm sensitive to  
2 the land valuation. But I don't think I even have  
3 anything to add.

4           I do want to just note, the statement was correct.  
5 There has been millions of dollars put into Feather River  
6 levee, on the section that we're looking to replace. And  
7 that's, frankly, one of the reasons we're looking at a  
8 setback. There has been a seepage berm, there's a slurry  
9 wall, and there's monitoring wells, and it's still having  
10 problems. And that's the reason we're looking to replace  
11 it.

12           I'm also wondering if Bob wants to speak to the  
13 issues raised by the commentator, about business  
14 operations and the way land valuations affect business  
15 operations, and whether that is included in the  
16 appraisals.

17           MR. MORRISON: There are two types of appraisals.  
18 There's the land itself, and then there's the actual  
19 business operations. So if we hinder the business  
20 operations, that business and/or agricultural entity would  
21 need to show, through their tax returns and their  
22 operations, how there is an additional value. And we can  
23 work with them to get to that number. And so, that is an  
24 entitlement, through the state laws. They are entitled to  
25 that.

1           And again, I just wanted to reiterate what Scott  
2   said. We are following all the state laws related to the  
3   acquisition of property for a public project.

4           SECRETARY DOHERTY: And nothing about family  
5   values or history that's there or anything that's there.  
6   Just have to follow the law.

7           MR. MORRISON: And there is a negotiation period.  
8   And unfortunately, yes, we have to follow the law.

9           TRLIA SPECIAL COUNSEL SHAPIRO: Would it be  
10   appropriate to take a five-minute break?

11          VICE PRESIDENT HODGKINS: Yeah. Okay. Five  
12   minutes.

13          (Thereupon a break was taken in  
14   proceedings.)

15          VICE PRESIDENT HODGKINS: We took a break. We are  
16   at the point where I would now like Mr. Qualley, who has a  
17   commitment here, that we're keeping him from, to talk to  
18   us about where the state and DWR are in terms of funding  
19   or moving forward with the plans that might enable state  
20   funding.

21          MR. QUALLEY: Well, in crafting both propositions  
22   1E and 84, it was recognized that there was both urgent  
23   need, the need to -- the work needed to be moving that  
24   quickly; and also a need to, you know, take a step back  
25   and strategically plan for additional works, you know,

1 gathering the information needed and then establishing  
2 processes to make sure that, over the course of the bond,  
3 that the fund would be spent in a strategic way.

4           So in the implementation of the bonds, the  
5 Department has been working with a variety of stakeholders  
6 to implement a two-pronged process, one where we could get  
7 going on the work that was urgently needed and would  
8 pretty clearly fit within the reasonably strategic plan  
9 that would come out of the process; and at the same time  
10 initiating a number of the planning processes, the levee  
11 evaluations, updating hydraulic models, all the things  
12 that need to be done, to move into the strategic phase,  
13 but it will take us two or three years to do that.

14           Nobody -- not the voters, not the legislature, not  
15 the governor's office -- two or three years to do  
16 anything. So the early implementation projects is part of  
17 the funding category, called state federal flood control  
18 system modifications, and this is basically the \$3 billion  
19 category in the model.

20           So the early implementation projects, there was  
21 \$200 million set aside in the fiscal year 2007/2008  
22 budget, to solicit the applications for these types of  
23 projects, that are ready to move forward.

24           In the governor's Bond Expenditure Plan, which is  
25 a requirement of Proposition 1E, there was a number of

1 criteria. Project selection criteria, were laid out in  
2 the Bond Expenditure Plan to guide the Department of Water  
3 Resources in selecting early implementation projects.

4 So we have prepared, or almost completed  
5 preparing, an application packet to solicit four of these  
6 types of projects for the \$200 million that's in the  
7 budget.

8 Our current plan is on Monday, March 26th, to post  
9 the application package. We're doing some internal  
10 review. There's a couple of things that we needed to  
11 tighten up in the packet, to make sure it's as clear as it  
12 can be. And we've got some internal modification  
13 requirements that we have to do within the administration.

14 So my current best estimate, I am pretty confident  
15 that we'll be posting it on our FloodSafe Website on  
16 March 26th.

17 We're going to be encouraging applicants to submit  
18 questions, verifying questions, questions they have about  
19 the project to us, in writing, to our e-mail address,  
20 where we provide an associate with the application  
21 package. And we'll commit to responding to those  
22 questions within two days of receipt on the Web site. We  
23 won't respond directly to the applicant. Whatever  
24 question we get that comes up, we want to share the  
25 information with all the potential applicants. We will be

1 posting those on the Web site.

2 The current time from staff is a week. And  
3 then -- so if we do, in fact, post the application on  
4 March 26th, then April 2nd would be the target date of  
5 receiving all of those questions. Then April 4th would be  
6 the date that we post the responses to those questions.

7 The applications would be due the last week of  
8 April. I'm thinking right now, April 30th would remain --  
9 a couple days earlier than that. April 30th is a Friday.

10 And applicants can, if they want -- they don't  
11 have to wait until then, if any applicant feels their  
12 package complete, that they would fully understand what's  
13 required of the packet and feel there is information  
14 available, they are certainly welcome to submit their  
15 package prior to the deadline.

16 And our team will be assembled and we'll begin  
17 review of the applications as soon as we get them.

18 The -- it's kind of a two-step process. Step one  
19 will be doing eligibility screening. And what that is, is  
20 all of the applications need to meet all of the project  
21 selection criteria that are outlined in the Bond  
22 Expenditure Plan, and they will of course be listed in the  
23 application plan as well.

24 There's ten criteria. And we say "applicable,"  
25 because, like, for example, if there's one criteria that

1 refers specifically to projects in urban areas and another  
2 criteria refers to projects in nonurban areas, obviously  
3 an applicant wouldn't be addressing both of those; it's  
4 one or the other. So they need to meet all of the  
5 applicable criteria.

6           Once we have the full set of applications that  
7 have been submitted by the deadline, we'll be -- the team  
8 will be gathering all the information together and  
9 determine which of the applications do meet all of the  
10 criteria.

11           And it's at that point we go into Phase 2 which is  
12 applying cost share criteria. We'll be looking at the  
13 applications, looking at the type of work being proposed,  
14 and at that time applying cost share requirements to the  
15 applications and getting in contact with the applicants to  
16 inform them of what the cost share is. And then the  
17 applicants would be required in that process to, you know,  
18 agree that, yes, that they can meet that cost share and  
19 then demonstrate financial capability to meet that cost  
20 share.

21           So the -- and then that process will be taking  
22 place during mid-May, like the deadline, I think, is  
23 April 30th. It depends too on how many applications we  
24 get. If we get, you know, just a few, if we get dozens,  
25 we don't know at this point.

1           But we're hopeful that we could complete this  
2   eligibility screening by about the third week of May, and  
3   then have gone through this process of applying the cost  
4   share and communicating with the applicants and arriving  
5   at that conclusion, somewhere in early- to mid-June.

6           Then we -- at the same time that we have -- around  
7   the date the applications are due, we will have put  
8   together a template for the agreement. So the idea would  
9   be that, you know, kind of at the same time where we find  
10   out the cost sharing requirements and getting the  
11   financial confirmation, share that template with them so  
12   that negotiations on the grant agreement can be done  
13   concurrently with other actions in the process. So that  
14   we can get to a -- assuming everything else, you know,  
15   fits with the applicant and the project, we can get to a  
16   grant agreement sometime early in July -- early June, July  
17   would be the target.

18           And some of the funding that we have available  
19   would be out of Proposition 84. And there is some  
20   continuously appropriated funding in Proposition 84. To  
21   the extent there's urgent requirements for funding in the  
22   July timeframe, assuming the agreement at that time would  
23   provide Proposition 84 funding available at that time.

24           The Proposition 1E funding probably won't be  
25   available until September, because the process has to be



1 done through the bond issues -- the financial processes  
2 that just take two or three months to go through, so that  
3 the quarterly funds can be available.

4           So the track we're on, you know, is anticipating  
5 that we could have -- you know, depending on the  
6 complexity of the grant agreement and of course having  
7 good communications back and forth with the applicant and  
8 getting, you know, information that's needed in a timely  
9 manner, to have those grant agreements in place, for the  
10 successful applicants, in the July timeframe.

11           Just a comment about TRLIA's presentation. They  
12 did correctly note on their presentation, that the request  
13 to DWR, they are -- because with them or any other  
14 applicant, there isn't a specific commitment at this point  
15 to any specific cost share or commitment to funding. We  
16 need to look at all the applications to see what's come in  
17 and, you know, make sure that they will be able to meet  
18 the eligibility criteria.

19           And so, you know, they reviewed -- a cost sharing  
20 formula was actually used on the Bear River. So from our  
21 perspective, it made sense in the presentation. So I just  
22 want to emphasize that it has been requested but that it  
23 hasn't been determined yet.

24           I think that's all I was going to say on that. If  
25 I've missed anything, for clarity, I would be glad to

1 answer any questions.

2 VICE PRESIDENT HODGKINS: I think that's a pretty  
3 good job. In terms of writing a check, based on your  
4 schedule now, when do you think -- or checks, excuse me.

5 MR. QUALLEY: Out of the proposition 84 funds, we  
6 would be able to do that very soon after the grant  
7 agreement is executed, so within July, we could probably  
8 issue the first funds in that same timeframe.

9 VICE PRESIDENT HODGKINS: Okay. So you issue the  
10 grant agreement. Do you want to guess how long it  
11 actually takes to get federal services to fund and issue  
12 the check?

13 MR. QUALLEY: These are up to General Services.  
14 It is in our control.

15 VICE PRESIDENT HODGKINS: Good. Great.

16 SECRETARY DOHERTY: Have you gotten any  
17 applications yet?

18 MR. QUALLEY: No, because we haven't issued the  
19 application package yet. And they need that before they  
20 even know what we are looking for.

21 SECRETARY DOHERTY: When will they be ready?

22 MR. QUALLEY: As indicated, our plan is to put it  
23 on our FloodSafe Web site on this coming Monday,  
24 March 26th.

25 VICE PRESIDENT HODGKINS: Questions from other

1 Board members or members of the public about state funds?

2 Okay, Please, Mr. Foley.

3 MR. FOLEY: Thank you, Board for having me again.

4 There is no commitment from DWR to anyone. And I  
5 believe the commitment was sort of represented here, that  
6 there was no commitment from DWR to anyone, or Rec Board.

7 It looks like it could potentially default, that  
8 it seems it's coming out at -- the Board has a good  
9 agreement to protect the public. That is true. That is a  
10 very important negotiating tool for the Reclamation Board  
11 to use, to have an ability to put this process into the  
12 Rec Board's hands.

13 There is precedence when there are small rural  
14 districts, and the funding capabilities aren't there, and  
15 that protection is needed for some other purpose. The  
16 Reclamation Board has taken over. And this, as it's  
17 coming out, potentially default, Three Rivers  
18 misrepresents up and down to the public, and if the  
19 Reclamation Board has got a good agreement with TRLIA,  
20 that potential default, that default is a negotiation  
21 tool, that considering everything that's transpired, that  
22 not another day should pass that the Reclamation Board  
23 could not get their attorney, get these attorneys and  
24 discuss their default. And then what -- there's no -- I  
25 cannot see any point to another day, of however possibly

1 to legally arrange these things. And I would like to be  
2 involved in it. If the potential default is here, is  
3 coming to, and you have that in the agreement, that is a  
4 negotiation tool that, for the public safety, should be  
5 used.

6 Thank you.

7 MR. QUALLEY: Could I clarify a couple things  
8 about the early implementation project. The early  
9 implementation projects are only for public entities to  
10 modify or improve, in some way, state federal flood  
11 control facilities. It's not a generally wide open  
12 program where anybody can apply for funding.

13 There are some programs within the FloodSafe  
14 initiative that, you know, for a variety of purposes and  
15 basically all locations in the state. But this particular  
16 program is only specifically for modifications or  
17 improvements to state federal flood control system levees.  
18 So that narrows the range of potential applicants right  
19 there.

20 And I do want to say that the type of project that  
21 TRLIA has proposed -- the setback levee project, that type  
22 of project with multipurpose benefits, you know, it  
23 increases the channel space or reduces stage, provides  
24 assistance benefits, that is the type of project that our  
25 department encourages, encourages through language in the

1 bonds, through the FloodSafe initiative. So our director  
2 and deputy director have stated that on a number of  
3 occasions. So it's not without a big reason that TRLIA  
4 feels confident after looking at the criteria listed in  
5 the Bond Expenditure Plan, that they believe their project  
6 has met those criteria.

7 But we can't maintain a commitment to anyone until  
8 we have opened up this process, officially, invited  
9 applications from anybody who feels they qualify. And  
10 once the application period closes, we see the entire set  
11 of applications, we can evaluate them. Only at that time  
12 can we make a legal commitment and proceed with the  
13 contract.

14 PRESIDENT CARTER: Mr. Qualley, one question. You  
15 just mentioned that this -- multiple benefit project is  
16 something the state supports.

17 Are you saying that the state is willing to  
18 recognize the value of these things in compensating the  
19 people who are providing the land, to enable the state to  
20 do this and the County to do this?

21 MR. QUALLEY: Well, certainly, there should be  
22 appropriate compensation. I was listening to the comments  
23 that Mr. Morrison made. And it appears to us that the  
24 procedure they are going through is appropriate in term of  
25 land values.

1           PRESIDENT CARTER:  Is inappropriate or  
2 appropriate.

3           MR. QUALLEY:  It is appropriate.

4           PRESIDENT CARTER:  It is appropriate.

5           MR. QUALLEY:  Under the state guidelines that have  
6 been communicated.

7           VICE PRESIDENT HODGKINS:  Other questions about  
8 state funding?

9           All right.

10          We will move on to the next item on the agenda,  
11 which is a report back on the maintenance responsibility.

12          Paul?

13          TRLIA EXECUTIVE DIRECTOR BRUNNER:  Okay.

14          Actually, after the last discussion, I'm really  
15 encouraged.  We'll have our application in.

16          All right.  This next topic is on maintenance and  
17 responsibilities of our levees.  This came up in the  
18 general discussion, from the last meeting of the 26th, and  
19 I will go through and recap a couple of items here, for  
20 folks.

21          The levees that we're dealing with, that existed  
22 before, on our map, in a second, I will show you -- but  
23 the levees that are in the TRLIA project are part of the  
24 system owned by the state and maintained under contract by  
25 RD 784.  So RD 784 does the maintenance of those levees

1 that we have. And the contractual relationship is between  
2 them and the state.

3 TRLIA is improving approximately 29 miles of the  
4 36 miles maintained by RD 784. Today, the project -- that  
5 we worked together on improving our projects, we jointly  
6 do the oversight to maintain those levees.

7 The levees that are not being maintained or  
8 improved by TRLIA are maintained solely by RD 784. And  
9 the areas benefitted by TRLIA improvements are greater  
10 than the current RD 784 assessments -- greater than the  
11 assessment area.

12 --o0o--

13 TRLIA EXECUTIVE DIRECTOR BRUNNER: And let me go  
14 to this map here. The areas -- again, you saw this  
15 before, in my prior presentation. The 29 miles of our  
16 levees are shown here, in the color scheme of blue, green,  
17 purple, and red, up here. That's the 29 miles of our  
18 levees that we're improving. Those are RD 784 levees.

19 The black area here is our levees that are within  
20 784, but they are not areas that we're improving. And  
21 that's really the difference between RD 784 and TRLIA.

22 There's an area up here that will come up and --  
23 potentially may come up in discussion, about assessment  
24 district and what we're headed for on the project. But  
25 really, that black area is the main difference of where

1 we're not improving it in the project area.

2 --o0o--

3 TRLIA EXECUTIVE DIRECTOR BRUNNER: The question  
4 is, where do we move into the future? TRLIA and RD 784  
5 are currently working together to establish a budget and  
6 appropriate amounts of money that we need to apply to meet  
7 the state standards, to really have good levees and  
8 maintain them. That effort continues. I think that I  
9 mentioned that or talked to you about that at the state  
10 Rec Board at times, when I've talked about what we are  
11 trying to do there.

12 The -- we're also in the process of embarking on a  
13 218 election, to cover the levee improvements for the  
14 areas that TRLIA has authority over, and maintaining it.

15 The future joint oversight -- in the future, there  
16 will be a joint oversight by TRLIA and RD 784 -- will  
17 continue until we complete our project. And if we stay on  
18 track with our project, for completion in 2008, somewhere  
19 around the 2008, 2009 timeframe, the fate of TRLIA will be  
20 determined, whether or not we stay or what we do. And  
21 during that time, if we are to go away, which is really  
22 the plan -- we were formed to build the levees and improve  
23 them -- we would then make the transition to the  
24 responsibility of the appropriate party. And most likely,  
25 that transition would be to RD 784. But until that time,



1 as we improve the levees, we'll jointly rework them  
2 together, to maintain that responsibility.

3 And that's really the end. I think that spells  
4 out how we currently do maintenance responsibility.

5 VICE PRESIDENT HODGKINS: Sources of funding for  
6 maintenance. I was under the impression that at least the  
7 new development was paying a annual fee that could be used  
8 for levee maintenance; is that correct or not?

9 TRLIA EXECUTIVE DIRECTOR BRUNNER: I will answer  
10 part of it. RD 784 currently does get money for their  
11 assessments to maintain the levees. I know, within my  
12 budget, within TRLIA, we have funding that we're allowed  
13 to do O&M and help support levee maintenance. That also  
14 supports O&M.

15 TRLIA SPECIAL COUNSEL SHAPIRO: Just to put a  
16 little meat on the bones, 784 had an existing assessment  
17 which continues to apply to all land. And that land  
18 converts from agricultural use to development use. Homes  
19 are going to be paying an assessment.

20 On top of that, as homes are approved, there is a  
21 county assessment area, if you will, where monies are  
22 collected for capital improvements. That money goes to RD  
23 784. Significant portions of that goes to drainage, but  
24 some actually can be used on maintenance as well. And I  
25 think what you are referring to, Butch, on top of that, is

1 as we developed the plan whereby developers can issue  
2 builder bonds and impact fee bonds, to recoup the money  
3 that they are paying, there is a reservation in the  
4 calculation. And the reservation is to ensure that there  
5 is a roof within the state limits for a  
6 hundred-dollar-a-home fee. And that hundred-dollar-a-home  
7 fee, for example, would be collected under the 218  
8 election.

9 So there is money collected. There's money paid  
10 as the home is approved. The builder bonds meet the  
11 capacity in the 218 election. And Paul talked about how  
12 we get the difference.

13 VICE PRESIDENT HODGKINS: But it's not a fee.  
14 It's not a fee, anyway, but an annual assessment on new  
15 homes to pay for levee maintenance.

16 TRLIA SPECIAL COUNSEL SHAPIRO: It isn't until the  
17 218 election. There's no mechanism whereby we impose a  
18 perpetual fee on new homes without having a 218 election  
19 under state law. It's a problem with -- it's one of the  
20 many problems of Proposition 218.

21 So we're collecting what we can. We're held to  
22 capacity of having a 218 election. That will be sometime  
23 this year. Paul knows the schedule better than I do. And  
24 once that election is complete, that will result in the  
25 fee for existing and new.

1           So new homes are paying capital improvements, old  
2 homes are not. New homes and old homes will pay O&M.

3           TRLIA EXECUTIVE DIRECTOR BRUNNER: And an  
4 important clarification is that the TRLIA Board hasn't  
5 actually adopted or accepted that we're having an election  
6 yet. We're in the formation of gathering information as  
7 to this issue. We'll be coming shortly, but we have not  
8 potentially set the 218 election this year.

9           We have funded the necessary studies to go forward  
10 to gather the information to see if we should proceed with  
11 218.

12          VICE PRESIDENT HODGKINS: Mr. Qualley?

13          MR. QUALLEY: Is it fair to assume that you'd  
14 either have a plan B or will develop a plan B, should the  
15 218 election fail? We all hope it passes, but that's  
16 pretty significant.

17          TRLIA SPECIAL COUNSEL SHAPIRO: The short answer  
18 is yes. Like other communities, where 218 elections don't  
19 pass, we would go back and go back again. Hopefully it  
20 will pass a second time. If that doesn't work, we'll look  
21 at other local funding sources. And at the end of the  
22 day, if there are insufficient local funds, there's always  
23 the opportunity for a maintenance area, which is nothing  
24 that a local area does lightly, but it's important that  
25 levee property be maintained. So yes, there is a plan B,

1 and that is the worst case scenario that DWR can impose,  
2 or what we can request.

3           TRLIA EXECUTIVE DIRECTOR BRUNNER: There's an  
4 element here -- I mean, it's one of the aspects that we're  
5 evaluating now, if the 218 can go forward, if the timing  
6 is right on it or not -- is, our levees are under  
7 improvement. As we embark on the Feather, half of the  
8 system is under construction or improvement. The Feather  
9 will be 13 miles of the system.

10           So it's definitely under the TRLIA oversight to  
11 maintain. We're weighing, do we go this year or not, and  
12 trying to come up with a right criteria to apply. If we  
13 chose not to go into 218 this year, I don't think it would  
14 fail. We -- TRLIA has got a lot of stuff still going on,  
15 in improvement. We do have our O&M budget in place. RD  
16 784 is still receiving revenues, and we would be able to  
17 maintain the system to a good standard and move forward on  
18 it.

19           I think the timing for having the funding in  
20 place, in answer to your question, was, is really once  
21 TRLIA is done, in the 2009 timeframe, as we go to degrade  
22 that levee, then how do we then put it in place, to move  
23 forward and have the right fund? And then that will give  
24 us time to come up with alternative plans, to make that  
25 happen.

1           We are no different than any other community that  
2   is trying to improve levees and achieve standards. And  
3   we're aggressively trying to do that too, to get our O&M  
4   to the state standard.

5           MR. ARCHER: Mr. Vice President?

6           VICE PRESIDENT HODGKINS: Sure.

7           MR. ARCHER: Thank you.

8           Regarding maintenance, I brought before the Yuba  
9   County Board of Supervisors not too long ago that thing on  
10 mello-roos. And it says that you can do things as long as  
11 you don't supplant the existing things.

12          Now, you are talking about maintaining levees.  
13 That's coming up here. You are maintaining levees. They  
14 are maintaining levees. You are maintaining your levees.  
15 They are maintaining their levees. But you are both  
16 maintaining levees. Those levees that you are maintaining  
17 were theirs before you came here. So you are now  
18 supplanting RD 784.

19          Now, I'm not an attorney. There's plenty of them  
20 here. But I'm sure, I read that law as clear as I could.  
21 And the bottom line of it said, you cannot supplant an  
22 existing entity under mello-roos.

23          So before you start your 18 [sic] elections, I  
24 believe you should look into that.

25          Mr. Shapiro? You are chomping at the bit.

1           TRLIA SPECIAL COUNSEL SHAPIRO: I just wanted to  
2 make clear that our maintenance is jointly with RD 784.  
3 784 supports our working to develop additional funding for  
4 maintenance. And our attorneys who handle our local  
5 finance have looked at the provisions that you have  
6 identified, and don't say they say what you say they say.

7           MR. ARCHER: Okay. That doesn't answer the  
8 question at all. They were in the maintenance business.  
9 I was president of that. I know what they done before you  
10 came. We don't need your operation to maintain our  
11 levees. You were brought here to get money to build  
12 levees. Now you are building yourself a conglomeration in  
13 Yuba County, if you get a stay, as the words were.

14           We don't need another big tax base -- I mean, a  
15 tax thing, in Yuba County when we have 784. The people  
16 that agree with you from 784, if they don't -- if they  
17 agree with you, they can be moved out and other people can  
18 move in, that disagrees with that.

19           784 is the maintenance, not Three Rivers.

20           VICE PRESIDENT HODGKINS: Thank you. We have one  
21 item left on the agenda, other than --

22           MR. HARRIS: Tom Harris, Hofman Ranch.

23           And I know the hour is late, Butch. And we  
24 probably all want to go do other things. But it's  
25 important, I think, that the Reclamation Board get their

1 arms around this thing called maintenance. And I suggest  
2 that from now on, in the monthly status reports that come  
3 from Three Rivers, there be a component in there, that  
4 lays out, with precision, exactly what the plan is for  
5 purposes of maintenance.

6 It came as a shock to a number of people -- and my  
7 client is included -- when they have received what Paul  
8 has identified, I guess, as trying to ascertain what the  
9 mood is out there politically, with a -- I guess you would  
10 call it a survey. And the survey was written with such  
11 precision, that it had right down to the penny what a  
12 potential assessment would be on these properties,  
13 shocking a number of people as to how far this train had  
14 gone down the track.

15 They did not understand that as Three Rivers was  
16 putting its levee project together, just how far-reaching  
17 on the map these potential assessments on an ongoing basis  
18 for maintenance fund may be.

19 I would have to go back and check, but I don't  
20 think it's ever been really laid out to the public in Yuba  
21 County, just exactly what that bill is going to be in  
22 perpetuity for all of these improvements that would be  
23 outside RD 784.

24 So there is a question here with respect to Three  
25 Rivers. I would indicate to you, Three Rivers is a joint

1 power authority. It was not designed to be in perpetuity.  
2 It's whole intent is to come in and do exactly what  
3 Mr. Archer suggested -- put together the financing that  
4 the construction underplaces and then say goodbye and hand  
5 over to some other maintenance authority, whatever that  
6 might be.

7 And their general provisions in their charter says  
8 very clearly, "It is not contemplated that the authority  
9 will in any way contract for or finance periodic levee  
10 maintenance activities, which the district, other  
11 reclamation district, or other governmental or  
12 nongovernmental entities are obligated to do or which  
13 otherwise, in the past, have been done by them." That  
14 would be Section 2.01 under Purposes, General Provisions.

15 There is, however, under the Powers to be Fair  
16 Provisions, language in there that identifies, among  
17 specific powers, to acquire, construct, manage, maintain,  
18 or operate public improvements. But that is, again,  
19 inconsistent, if you will, with the idea that somehow  
20 Three Rivers is going to be around, in perpetuity, to  
21 handle the maintenance, much less who's going to have to  
22 pay for it in terms of -- I guess you would call it  
23 benefitted households or private properties and, you know,  
24 whether or not they had a house on them or don't have a  
25 house or whatever. It's a complex issue. And I think



1 it's important for the Board to be made aware and keep on  
2 top of it, because I have a feeling we're going to be  
3 visiting this one a number of times in the future.

4 Thank you.

5 TRLIA SPECIAL COUNSEL SHAPIRO: Something I said  
6 may not have been clear. Paul had noted that 2009 might  
7 be the end of Three Rivers. It's important to realize  
8 that the 218 election and the ability to get money from  
9 and investing in the ability of Three Rivers, that  
10 assessment district, if you will, can assign the money to  
11 784, to the county to actually do the maintenance, long  
12 term.

13 So the fact that there is an election to raise  
14 that money is not a self-determining prophesy that Three  
15 Rivers has to be around. We didn't mean to imply,  
16 otherwise, if our comments were taken that way.

17 VICE PRESIDENT HODGKINS: Ms. Hofman?

18 MS. HOFMAN: I'm sorry to trouble you, but I'm one  
19 of the persons that has nothing to do with Three Rivers.  
20 As far as any levee, they've helped us.

21 I have been trying now, for over five weeks,  
22 daily, to get ahold of Three Rivers, to look at their  
23 records that establishes their survey they sent out, which  
24 was an official survey, in which I'm paying an assessment  
25 on land that I know for a fact, from the history of the

1 area, hasn't flooded in 140 years.

2 The area of benefit that Three Rivers come here  
3 and told you how many people they were saving, they sure  
4 as hell, excuse the expression, must have been included in  
5 that land that hadn't flooded for 140 years and is above  
6 the elevations.

7 We are paying -- in some areas, we're paying a  
8 hundred dollars an acre on land that has never flooded, in  
9 this survey that they are doing.

10 Three Rivers is out of control. You cannot get  
11 the records. If you have bills and you are being asked to  
12 participate in a maintenance in which they are charging  
13 you maintenance for levee protection on land, that they  
14 claim they have a right to flood for an invasion easement.

15 These people are out of control. We can't get the  
16 records. They are over here, saying, they are ready for  
17 an election. You ask them, what is your -- how are you  
18 assessing the benefit? Some people are benefitting from  
19 the interceptor levee. They are benefitting from the  
20 Feather River levee. They are benefitting from the  
21 improvements that was done on the Bear and the Yuba.

22 And some of us are benefitting for nothing, but  
23 the assessment is the same. And you can't get -- you  
24 can't get the information.

25 I received -- as an official document from TRLIA,

1 I received the list of people that was being -- the  
2 parcels that being was [sic] assessed, was 239 pages. It  
3 wasn't even numbered. It didn't have a title. It didn't  
4 tell you anything about how they assessed it. It just  
5 listed your parcels. So from that, you figured out what  
6 you are being assessed on, apparently.

7 There's lists. There's nothing on them that tell  
8 you what it is. There's no way to get any record or  
9 information. And the only help that we have here is the  
10 Reclamation Board to see that something is properly done,  
11 because they told us that the developers was paying for  
12 it. 784 was involved in it. Now they are making a county  
13 service area to take in more people.

14 And when I asked last -- when you had your first  
15 meeting here, I asked specifically what the area of  
16 benefit was. And there was 25,000, there was 27,000  
17 people. Now I find out, I'm one of them. And I got  
18 flowage easements.

19 Thank you.

20 VICE PRESIDENT HODGKINS: All I want to say that  
21 may give you some comfort is, to the best of my knowledge,  
22 having worked for SAFCA, find some way to raise money  
23 without having to go through a 218 election, there is  
24 none. So they are going to have to send ballots out and  
25 get people to vote. And that's going to be a real

1 challenge.

2           TRLIA EXECUTIVE DIRECTOR BRUNNER: I do think it  
3 would be wise to share a couple comments, where we are on  
4 218 election.

5           The -- we have not established any benefit of  
6 areas yet or assessed anyone or proposed assessments on  
7 anyone.

8           What we did do was go forward with a survey that  
9 had a range of numbers to a populace in the area, that we  
10 have, to see how they would respond or were they -- how  
11 would they respond to a new election. And it was a survey  
12 that was sent out with a range of numbers. And that's all  
13 it was.

14           And we have received that information back and  
15 we're considering what the responses were to that survey.  
16 We are intimately working with our assessment engineers to  
17 try to establish what benefits there are, where they are,  
18 and how people should be assessed. No one -- I don't even  
19 know what the assessment will be yet. We sure haven't  
20 gone to our Board to propose anything yet, in regards to  
21 that. That all goes to the weighing of what we are going  
22 to come with into the future.

23           In regards to the records, the records that we do  
24 have are on file. There was a delay, and we talked to  
25 Ms. Hofman about that.

1           So the -- but we haven't made any decisions, and  
2   the TRLIA Board still has to wade through whether or not  
3   we can do it, and that's in the formation or stage it's in  
4   right now.

5           VICE PRESIDENT HODGKINS:  Other comments or  
6   questions?

7           MR. FOLEY:  I would just like to comment that  
8   regarding the maintenance afterwards, for these urban  
9   areas, the Reclamation Board and Three Rivers, as a public  
10  safety agency, has to come to a realization that -- or in  
11  urban areas where numbers of people and the dollars and  
12  the costs of those when something goes wrong.  This is not  
13  good enough for urban areas, including afterwards, if  
14  it's -- it can be left for urban areas for people living  
15  there.  The Rec Board has to make it more clear, has to  
16  act more aggressive towards the public interest.  If it is  
17  necessary -- if this is going to come up over and over  
18  again, then the Rec Board has to make some policy  
19  recommendations for urban areas.  DWR became the  
20  maintaining agency.  I'm for urban areas.  This is not  
21  good enough, the whole proceedings.

22          VICE PRESIDENT HODGKINS:  Whatever my personal  
23  opinion might be, I think, in the end, what it breaks down  
24  to is if the levees, which are inspected twice annually by  
25  DWR, are not being maintained to current standards, and

1 those standards go up, the state's long-term option,  
2 because of the potential for 218, whether it be approved,  
3 is to establish a maintenance area where SAFCA assesses  
4 and the state's assessment is not covered by 218.

5 So you know, there may have been opportunities to  
6 get a fee in place at least where it helped. But it's  
7 done. And I think the only choice is to pursue a 218  
8 election. And you know, it's probably not -- it probably  
9 can pass. It's a challenge. And if it's not done, and  
10 the existing revenue is enough to maintain the levees,  
11 then eventually the state will be worse. It's not a great  
12 way to do business.

13 Okay.

14 We have -- our last item of formal reporting on  
15 the agenda, which is response to concerns expressed at the  
16 February 26, 2007, subcommittee meeting regarding  
17 compliance with Bagley-Keene.

18 And I'm going to turn this over to Ms. Finch, who  
19 is an attorney representing the Rec Board here today.

20 PRESIDENT CARTER: I just wanted to make one quick  
21 comment before Ms. Finch responds to the concerns from  
22 last meeting.

23 As President of the State Reclamation Board, I  
24 take the responsibility of compliance to the Open Meeting  
25 Law very, very seriously, and asked that our legal counsel

1 respond to these allegations. I'm glad they did.

2 And I am disappointed in that the form of some of  
3 these allegations really did -- were without foundation,  
4 as you will hear. And I don't appreciate individuals  
5 making allegations without -- without proper local  
6 foundation.

7 So -- but this is something that we do take  
8 seriously. If there are concerns we do want to know about  
9 it. We will address them.

10 But I was a little bit disappointed in the  
11 comments from the last meeting.

12 LEGAL COUNSEL FINCH: Thank you.

13 I'm going to be brief because there has been a  
14 handout distributed regarding this issue. And there is at  
15 least one copy available to the public for inspection.  
16 There's more than one.

17 So if anybody would like a copy. So I would like  
18 to go through the points. The first point made was the  
19 adequacy of the notice of the contact person. And under  
20 Bagley-Keene, you need to have a name, address, and phone  
21 number of any person who can provide further information  
22 regarding the agenda.

23 And the Board has had a procedure, a long-standing  
24 procedure, and that is, that information is provided on  
25 the letterhead. And we've never had any complaints. And

1 so when it was brought to the attention that there  
2 possibly could be some confusion on this matter, we have  
3 added something where, from now on, for more clarity, we  
4 will have a little sentence on the agenda that states a  
5 specific person with their name and address and telephone  
6 number in order to provide further clarity.

7 But our position is that what we have been doing  
8 in the past was adequate, but we are always open to  
9 improving our system.

10 And then the second point is the adequacy of the  
11 Board's brief agenda description of items to be discussed  
12 on the agenda, for the subcommittee meeting.

13 And under Bagley-Keene, the description does not  
14 need to be in excess of 20 words. And the  
15 February 26th Board meeting had one agenda item, which was  
16 the status and review of Three Rivers Levee Improvement  
17 Authority projects. And then we added a clarifying  
18 component to the agenda by breaking it down to three  
19 subcategories. And that is adequate, as a brief general  
20 description for Bagley-Keene.

21 And then moving on to the third item, which that  
22 the agenda did not clearly notice action items, it is the  
23 procedure of the Board that we asterisk any agenda item.  
24 And that is sufficient for Bagley-Keene.

25 And then the fourth item was that we did not



1 provide proper public comment opportunities. And Item 4  
2 on the agenda allowed for public comment on both the  
3 agendized items and non-agendized items. And that is  
4 sufficient for Bagley-Keene.

5 So the Rec Board subcommittee did not violate  
6 Bagley-Keene at the February 26th Board meeting --  
7 subcommittee meeting.

8 VICE PRESIDENT HODGKINS: Mr. Foley?

9 MR. FOLEY: I can say it from here. I suppose  
10 that came from Dale Smith, who does work with -- he's a  
11 member of the CCRG. He's also on the Board. And he's  
12 very sensitive of those things.

13 I, personally, from experience, am very, very  
14 happy with the time the Board gives me, when we jump up.  
15 I'm as happy as can be. He has those concerns. And I  
16 don't understand them.

17 VICE PRESIDENT HODGKINS: Thank you. That helps.

18 All right.

19 PRESIDENT CARTER: Just for the record, we will be  
20 drafting a letter to Dr. Smith in response to his concerns  
21 with regards to this. The content of this will be  
22 essentially what Ms. Finch has just presented to you and  
23 what's in the handout.

24 VICE PRESIDENT HODGKINS: Yes, Ms. Griego?

25 TRLIA BOARD MEMBER GRIEGO: Yes, before we

1 adjourn, I have a few comments, if I can. Do you want me  
2 to grab the microphone?

3 VICE PRESIDENT HODGKINS: We are in the public  
4 comment session. Unless -- wait. Are there other  
5 comments about the Bagley-Keene response?

6 No.

7 We're going to move on.

8 And I would remind you that the committee needs a  
9 few minutes at the end of this to discuss what it thinks  
10 its next steps are.

11 TRLIA BOARD MEMBER GRIEGO: Thank you. I just  
12 would like to thank the Rec Board for conducting these  
13 meetings here in Yuba county. I think it's a real  
14 convenience for all of us to share and educate.

15 I had the opportunity this last weekend, to sit in  
16 front of about 111 officials and talk about the levee  
17 project that we have in Yuba county and what we've been  
18 able to accomplish.

19 Needless to say, there was a lot of people that  
20 wished they were in the same boat as Yuba County, with  
21 flood protection. And what that means to say is this,  
22 that coming up with a local share is not going to be an  
23 easy task for the Central Valley communities. Needless to  
24 say, the process in itself is dubious.

25 So one of the things that we talked about was

1 farmland, farmland preservation. Because that's a  
2 sensitive issue with the group that I was talking to.

3 And because this bill, 184, did not provide for  
4 farmland, the thought of the crowd was that farmland would  
5 be a risk because of the share the local jurisdictions  
6 have to come up with, and that it will be sold in order to  
7 come up with that share.

8 We're sensitive to these local issues of ag use.  
9 I think that because I sit on the Cal Ag Board, and our  
10 mission is to preserve ag land. Many times I've sat on  
11 that dais, trying to protect the ag lands, in my district.  
12 People do have property rights.

13 But more importantly, the reason why I sat on this  
14 committee and because I have been so diligent to try to  
15 get this project done is because of lies. You look at the  
16 flood of '50, '55, '86, and '97. That's what's important.  
17 So I just want to make sure we have that in perspective.

18 Thank you.

19 VICE PRESIDENT HODGKINS: Sir?

20 MR. LEWIS: My name is Jim Lewis. And I live on  
21 Broadway, which is the great Broadway to the levee. And  
22 one of the issues that I think has been woefully omitted  
23 especially when we talk about maintenance, is enforcement  
24 and protection of levees and enforcement of that  
25 protection.

1           I would submit that the levee is currently being  
2 degraded at an accelerated rate because of the permissible  
3 access to the levee by motorcycles, four-wheelers,  
4 four-wheel drive trucks, that like to jump over the levee,  
5 dig big ruts on the side.

6           It's -- you know, whatever happens, whether the  
7 in-place levee is upgraded, whether we do the new levee,  
8 there needs to be a provision for funds to provide  
9 enforcement and protection of the levee, because the  
10 lives -- you know, when I put my head down on my pillow at  
11 night and there's an 1-inch-an-hour storm going on, I want  
12 to be able to sleep and not thinking about the ruts that  
13 are in the levee, where people have gone around the gates  
14 or cut the fences to get into the levee.

15           It's something that hasn't been discussed, but no  
16 matter what happens, with any of your plans, the levee  
17 that ends up protecting this region, you may call it  
18 \$140 million project or 200 million or whatever, but it's  
19 priceless.

20           And it needs to be protected.

21           TRLIA SPECIAL COUNSEL SHAPIRO: I just want to  
22 say, some people don't know, but I'm general counsel for  
23 the California Flood Control Association. And there's a  
24 great difficulty right now in enforcing trespass standards  
25 on levees. There's actually been a bill introduced in

1 legislature that would make it easier for RDs to enforce  
2 trespass standards.

3           So I don't recall the number offhand, but if you  
4 go to the state Senate Web page, you can do a search for  
5 levee trespass, and I would encourage anyone who feels  
6 this way to write letters of support for that bill,  
7 because we do have very little ability to easily enforce  
8 trespass standards as a reclamation district.

9           VICE PRESIDENT HODGKINS: And while we haven't  
10 discussed the subject that we raised here, believe me,  
11 this is a subject that has been much discussed in almost  
12 every urban area, and eventually will have to be  
13 addressed, but not now.

14           Any more comments from the public?

15           MS. RICE: My name is Jeanette Rice, and I live  
16 out in Plumas Lake area.

17           I'm the last of a dying breed. I'm one of the  
18 farmers out there who's scheduled to possibly lose my land  
19 due to eminent domain. I think our parcel number is 96,  
20 up there, on the map.

21           I have a 20-acre farm and it's been projected that  
22 I'm going to lose about 6 acres of that farm. It's very  
23 valuable land. It's probably the richest farmland in Yuba  
24 County. And I raise peaches and nectarines and plums and  
25 apricots on that land. And I'm really concerned that that

1 levee setback is going to take most of that land and put  
2 me out of business as a certified farmer's market  
3 producer.

4 My family and I had started a farm back in 1955.  
5 We've seen a lot of changes since then. And I just want  
6 to make you all aware that if this levee setback line  
7 isn't changed, you are destined to lose one of the most  
8 productive Yuba County producers in the area.

9 I will ask you to take a very careful look at that  
10 levee setback. And I request that you take a look at it  
11 and really think what you guys are doing.

12 The proposal is -- the levee setback right now is  
13 almost a half mile away from where it would be ordinarily.  
14 So I'm just asking that you think about us, at Rice River  
15 Ranch, and other farmers in the area, to limit that and  
16 ask that you put that limit line only 300 feet away, to  
17 the west, and you can save our valuable family farm.

18 Thank you.

19 VICE PRESIDENT HODGKINS: Other comments?

20 Thank you.

21 All right. I think the committee has to think a  
22 little bit about what our next steps are. One thing that  
23 I'm not anxious to hear but that I think has to be done,  
24 is that would be a summary prepared for the full board,  
25 really of what's transpired at these meetings.

1           And I'm prepared to do that. I think a couple of  
2   questions that I would like my fellow Board members to  
3   give me some assistance on -- at this point, is there a  
4   reason for the subcommittee to meet again, in your minds?

5           And along with that, I guess I would want to say,  
6   it seems to me that we have what would appear to be a  
7   credible, given, but tight cash flow that, in effect, if  
8   this money comes out of the state, they are proceeding  
9   forward with that project now, and using the funds that  
10   are coming in. If the money comes in from the state, they  
11   are to be able to -- and nothing else goes wrong, I don't  
12   think we should -- it's not wrong. I mean, nothing else  
13   that's unanticipated happens. They ought to be able to  
14   finish the levee improvements, not the degradation by --  
15   before the flood season of 2009.

16           So to some extent, it seems to me that the main  
17   thing we have to do as either the subcommittee or the full  
18   Board is monitor carefully whether the funding inflow and  
19   outflow, that was shown today, is in fact what actually  
20   happens. And in the event that at some point an event  
21   happens and that funding isn't realized, then we are in a  
22   position of having to step back in here and decide  
23   whether, you know, we would want to consider default or  
24   have more time here for these folks to work out an  
25   agreement with their landowner.

1           But up until then, it seems like our best approach  
2   is just to watch what's happening and to get issues  
3   resolved that a timely manner, which might lead to funding  
4   and construction of these projects.

5           But I would like to hear from the others to the  
6   extent of that.

7           PRESIDENT CARTER:  I -- not that I want to put  
8   another meeting on the calendar, but I do have some  
9   concerns, which I think are worth monitoring.  Whether or  
10  not we need to have another subcommittee or we could do  
11  that at the Board level, I'm not sure.

12          My concerns not only focus around the dollars and  
13  the cash flow.  As you say, Butch, it's tight.  Everything  
14  has to fall -- all the pieces of the puzzle have to fall  
15  into place when we plan on having them fall into place.

16          But also, I'm -- as you probably could tell, I'm  
17  pretty sensitive to where the setback is and how you do  
18  that with regard to the local property owners.  Based on  
19  what I heard today, I'm not entirely convinced that the  
20  line that's on this map is, in fact, the line that --  
21  where it needs to be.

22          I encourage you not to hide behind the eminent  
23  domain and condemnation laws when you are approaching  
24  acquisitions.  I know you can do that.  That is a choice  
25  that you make, but that's not something you have to do.



1 And so I want to keep up to speed on what's going on  
2 there.

3 So, you know, I -- maybe in a couple months it  
4 might make sense to have another -- just a review of where  
5 we stand on all that, here in Yuba city.

6 SECRETARY DOHERTY: I quite agree with that. I  
7 think sometimes I'm in the wrong place because there's  
8 only 50.1 percent of lands in California left in private  
9 hands. And I feel that the Supreme Court has issued our  
10 private property rights. We don't have them anymore,  
11 Ms. Griego. So this is a sensitive subject.

12 I concur with the President also.

13 VICE PRESIDENT HODGKINS: Okay. So it seems to me  
14 that for now, we're going to schedule another committee  
15 meeting, two months roughly -- we need to work with you to  
16 find a date that works with you and with us -- when we  
17 would again look at and how things are addressed in terms  
18 of the cash flow and expect, I think, to hear a little bit  
19 more about the location of the levee. And you folks have  
20 any comment or thoughts about that?

21 TRLIA EXECUTIVE DIRECTOR BRUNNER: We're open to  
22 the meeting. I think the idea of coming back with a  
23 progress report and a subcommittee meeting is probably  
24 more productive than a full Board meeting. We've been  
25 here a long time already. I can't imagine us taking this

1 amount of time at your Board meeting, where you already  
2 got lots and lots of topics going on. So I think it is  
3 productive, we have an exchange here on it.

4 The -- my sense of the discussion on the  
5 foundation -- and we are sensitive to that. I'm sensitive  
6 to it, on where we put it. We have tried to move that  
7 levee around. We could try more. But we are on that fast  
8 track to get it done by 2009.

9 So there is a dynamic there in moving forward,  
10 getting the project on schedule. We don't want to do  
11 something just to do something. And we will try really  
12 hard not to go and hide behind eminent domain, and to work  
13 with the residents, back and forth on it.

14 But the reality is, is that we need to anchor the  
15 levee and get soil. And that's why we're building a new  
16 levee.

17 We do have soil borings that we have taken and the  
18 spacing is different. I mean, our project is no different  
19 than the rest of the levees we built across the street.  
20 We have a spacing that's out there, based upon certain  
21 protocols, on which we are building the levee. You are  
22 going to face this over and over and over again, project  
23 after project that's out there.

24 And we're now coming in to try to fill that space  
25 again, with data, which may adjust the levee to some

1 degree, fine-tuning it. But we actively want to get that  
2 levee built.

3           TRLIA SPECIAL COUNSEL SHAPIRO: I just wanted to  
4 turn it to a procedural question. It has been my view, as  
5 counsel for Three Rivers, that the decision to construct  
6 the setback levee and receive state funding and adjust the  
7 local share will require an amendment to the second  
8 funding, but does not require a change to the second  
9 implementation agreement. And you will recall, the second  
10 implementation agreement is one to be approved. There's a  
11 third party beneficiary on it that says, "You will do X,  
12 Y, Z." And the second funding agreement is an internal  
13 agreement. It's between Three Rivers and the county.

14           So we're going to be working over the next several  
15 months to amend that. We clearly will keep you informed  
16 of that. The procedural question I'm asking is, whether  
17 you think you need to take any action in that regard.

18           I don't believe you do, because you are not a  
19 party to either agreement. You are a beneficiary of the  
20 agreement that will still be in place. But I think it's  
21 worth, at least, asking the question.

22           Butch, as you wrote your report on, when you were  
23 asking if your entire Board should take action or whether  
24 you are simply updating them on what this committee has  
25 heard, and are you continuing with your intent to monitor?

1 I just want to ask the question.

2 VICE PRESIDENT HODGKINS: I think it probably  
3 makes more sense to ask counsel to look carefully at the  
4 agreements and discuss the matter with Mr. Shapiro.

5 If you believe we need to, as a Board, make a  
6 decision here, about the difference between the  
7 implementation agreement and the funding agreement, or if  
8 you think, based on what you have seen, that the  
9 implementation agreement may require amendments, then I  
10 think the only way the three of us can discuss that would  
11 be in another meeting, and so we would have to schedule  
12 another meeting.

13 And I think you can go ahead and do the research  
14 and talk to Mr. Shapiro and just advise the Board members,  
15 in the event that you think we need to amend either the  
16 implementation agreement or get involved in some way.

17 What do you call the other one?

18 TRLIA SPECIAL COUNSEL SHAPIRO: Funding agreement.

19 VICE PRESIDENT HODGKINS: Funding agreement. Is  
20 that okay?

21 Mr. Archer, would you like to make a comment?

22 MR. ARCHER: Yes, I would. We'll go back  
23 upstream, to where you say that levee is clear, safe.  
24 Three Rivers says that -- Three Rivers says that levee is  
25 good as reconstructed.

1           Now, it was made in 1909 or somewhere, by farmers,  
2   to haul that stuff up there. That was its construction,  
3   and then it was broken in '86 and they poured certain  
4   things in there.

5           And the construction after that was a slurry wall  
6   halfway up and a sand berm out here. Now, they say they  
7   are solid on it. It's a solid levee. They like that  
8   levee. They have taken this -- the Board of Supervisors  
9   has held the State of California harmless from any levee  
10  failures.

11          Now, since they say that that levee is safe, we  
12  either have to sue when it fails there, where it's  
13  slumping right now, like I've tried to tell you people.  
14  We either have to sue Three Rivers or Yuba County or 784  
15  or who, because the State is going to say, "We're held  
16  harmless."

17          Now, that levee is unsafe. I didn't spend seven  
18  years working on that levee, knowing that even back then,  
19  when they made these maps that they are showing you here,  
20  they left that area out. They wouldn't put it on maps  
21  because they did not intend to work on that area. It  
22  can't be fixed. They know it can't be fixed. So they got  
23  a permit.

24          PRESIDENT CARTER: Mr. Archer, we have talked  
25  about this ad nauseam and --

1           MR. ARCHER: All right. I just want you to know I  
2 disagree with your saying --

3           PRESIDENT CARTER: And I understand that. That is  
4 your right. I know you disagree. I know you don't trust  
5 the Corps' analysis. I know you don't trust the other  
6 engineering analysis. But that's the analysis that the  
7 Rec Board has to rely on. That's what we are relying on.

8           MR. ARCHER: All right. Because I now know --

9           PRESIDENT CARTER: End of story. End of  
10 discussion.

11          MR. ARCHER: That's not the end of my discussion.

12          PRESIDENT CARTER: You can disagree. That's your  
13 right. But that's where the Board stands, and we're  
14 moving on from here.

15          MR. ARCHER: I went back to the closing end of it.  
16 I mean, that's it now. I'm adios.

17          Thank you.

18          VICE PRESIDENT HODGKINS: For all of you, we  
19 appreciate your participation, your willingness to sit  
20 here, through what can't have been the most entertaining  
21 meeting. But we expect, perhaps to see you again, in  
22 about two months and sort of check in on where we are.  
23 All right?

24          And I want to thank you, the Three Rivers folks,  
25 who have been, I think, more than willing to indulge

1 people peeking into their project more than typically had  
2 been in the past. But it helps us all better understand  
3 what's going on.

4 Thank you.

5 (The Reclamation Board TRLIA Subcommittee

6 Meeting adjourned at 5:57 p.m.)

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## 1 CERTIFICATE OF REPORTER

2 I, KATHRYN S. KENYON, a Certified Shorthand Reporter  
3 of the State of California, do hereby certify:

4 That I am a disinterested person herein; that the  
5 foregoing Reclamation Board TRLIA Subcommittee Meeting was  
6 reported in shorthand by me, Kathryn S. Kenyon, a  
7 Certified Shorthand Reporter of the State of California,  
8 and thereafter transcribed into typewriting.

9 I further certify that I am not of counsel or  
10 attorney for any of the parties to said meeting nor in any  
11 way interested in the outcome of said meeting.

12 IN WITNESS WHEREOF, I have hereunto set my hand this  
13 3rd day of April, 2007.

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22 KATHRYN S. KENYON, CSR

23 Certified Shorthand Reporter

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